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W.P.No.2445 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.2445 of 2020

Vinayagam

... Petitioner

Vs

1. Tamilnadu Water Supply Drainage Board,
Drainage Board,
Rep by its Chairman cum Managing Director,
Chepauk, Chennai -5.
2. The Secretary-cum-General Manager,
Tamilnadu Water Supply Drainage Board,
Drainage Board,
Chepauk, Chennai -5.
3. The Chief Engineer,
Tamilnadu Water Supply Drainage Board,
Drainage Board,
North Region, Vellore – 6.

...

Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the action of



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the respondents in not including the petitioner name in the panel fit for promotion to the post of Assistant for the year 2009 on the ground that the punishment of censure was in currency for one year and as on the crucial date and not granting his promotion as per his seniority in the vacancies which arose in the year 2009 and not granting the petitioner promotion to the post of Assistant in the vacancies arose in the year 2010 in spite of including his name in the panel on the ground that before the publication of the panel he has retired from service as illegal, arbitrary and unconstitutional and consequently direct the respondents to promote him as assistant either in 2009 year vacancies without reference to the punishment of censure or in the 2010 year vacancies without reference to his retirement / superannuation as per his seniority with all consequential benefits and to pay him the revised terminal benefits including revised pension award costs.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.S.Silambanan, senior counsel
1 and 3 for Ms.S.Shahila Bhanu

For Respondent-2 : Mr.V.Manoharan,
Additional Government Pleader



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ORDER

This writ petition has been filed for declaration, declaring that the that the action of the respondents in not including the petitioner name in the panel fit for promotion to the post of Assistant for the year 2009 as null and void and consequently direct the respondents to promote him as assistant either in 2009 year vacancies without reference to the punishment of censure or in the 2010 year vacancies without reference to his retirement/superannuation as per his seniority with all consequential benefits.

2. The petitioner had joined the services of the first respondent Board as an Office Assistant on 18.12.1978. Subsequently, he was appointed as Junior Assistant with effect from 06.09.1988. Accordingly, his name was included in the combined seniority list of Junior Assistants at serial number 1597. While things stood so, the



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petitioner was punished with a censure by order dated 22.04.2009 on the ground that, after signing the attendance without obtaining permission from his superiors, the petitioner attended the enquiry on behalf of a retired employee as defence assistant, cross examined the witnesses on his behalf and acted against the interest of the Board. Even then, the petitioner was not promoted to the post of assistant. On 26.04.2010, the first respondent issued the proceedings and published the approved list of persons eligible for promotion to the post of the Assistant for the year 2009. However, the name of the petitioner was overlooked due to the punishment imposed on him by order dated 22.04.2009 under Rule 9(a) of the Tamil Nadu Water Supply and Drainage Board (TWAD) Discipline and Appeal Rules. The punishment came to an end on 22.04.2010. Therefore, the crucial date to include the name of the petitioner in the panel to the post of Assistant fell prior to the date of expiry of the punishment of censure. The petitioner attained the superannuation and retired from services on 30.11.2010.



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3. The learned counsel for the petitioner would submit that if the name of the petitioner had been included in the panel, he would have been promoted while he was still in service. That apart, the petitioner had passed the special test and the result was published in the gazette only on 01.07.2009. However, even before the crucial date, the petitioner had attended the special test and passed the special test.

4. In the counter affidavit filed by the 3rd respondent, it is stated that punishment of censure was not the reason for non-inclusion of petitioner's name in the panel for the post of assistant. It is further stated that, on the crucial date, the petitioner did not possess the required qualification for promotion to the post of assistant.

5. On perusal of the counter and the submissions made by the learned senior counsel for respondents 1 and 3, it is revealed that as



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per Regulation 23 of the Tamil Nadu Water Supply and Drainage Board Service Regulations, 1972, the qualifications prescribed to the post of Assistant by the method of promotion or transfer of service are

a) must possess the minimum general qualification.

b) must have 5 (five) years of service in the lower post from which promotion is made.

No employee shall be eligible for promotion unless and until they have passed the following special test specified below:

(i) Account test for subordinate officers, Parts I & II.

(ii) District Office Manual Test.

(iii) A test in the Tamil Nadu Water Supply and Drainage Board

Service Regulations: Discipline and Appeal Regulations:

Conduct Regulation and Travelling Allowance Regulations.

The petitioner passed the special test only 01.09.2009 for the year 2009-2010 whereas the crucial date for preparing the panel for promotion to the post of assistant was 01.07.2009 for the year 2009-2010. On the crucial date, the petitioner did not possess the required



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special test qualification to hold the post of the Assistant. Hence, the name of the petitioner was not included in the panel for the year 2009-2010. That apart, the petitioner has filed this writ petition 10 years after the date of his retirement. There is no absolutely no explanation for the delay of 10 years in filing this writ petition. In view of the aforesaid reasons, this Court finds no merits in this writ petition and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

10.09.2024

Index:Yes/No

Speaking Order: Yes

srn

To

1. The Chairman cum Managing Director,
Tamilnadu Water Supply Drainage Board,
Drainage Board,
Chepauk, Chennai -5.
2. The Secretary-cum-General Manager,
Tamilnadu Water Supply Drainage Board,
Drainage Board,
Chepauk, Chennai -5.
3. The Chief Engineer,



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G.K.ILANTHIRAIYAN, J.

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