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W.P. No.24017 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.24017 of 2012

D. Selvarajan

... Petitioner

Vs.

1. The Commissioner,
Thirunallar Commune Panchayat,
Thirunallar, Karaikal, Puducherry
2. The Director,
Local Administrative Department,
Chief Secretariat, Puducherry.
3. J. Somasundaram,
Junior Engineer,
Thirunallar Commune Panchayat,
Thirunallar, Karaikal, Puducherry.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of certiorarified Mandamus, or any other Writ, Order or Direction to call for the records of the first respondent with No.F.No.60/TNR.CP/Estt/2012 dated 10.08.2012 and to quash the same in respect of the seniority of the third respondent and consequently to direct the first respondent to publish the seniority list placing the petitioner in Seniority No.1 and consequently to consider and promote the petitioner to the next promotional post of Assistant Engineer.



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For Petitioner : Mr.V.Ajayakumar
For R1 & R2 : Ms. G. Djearyany
Government Advocate (Puducherry)
For R3 : Mr.P.Sathish

ORDER

This Writ Petition has been filed seeking for the issuance of Writ of certiorarified Mandamus, or any other Writ, Order or Direction to call for the records of the first respondent with No.F.No.60/TNR.CP/Estt/2012 dated 10.08.2012 and to quash the same in respect of the seniority of the third respondent and consequently to direct the first respondent to publish the seniority list placing the petitioner in Seniority No.1 and consequently to consider and promote the petitioner to the next promotional post of Assistant Engineer.

2. The brief facts that are relevant for the disposal of the Writ Petition are as under:

2.1. The petitioner herein and the third respondent participated in the recruitment process for filling up the post of Junior Engineer in different Commune Panchayats under the control of the second respondent. The second respondent has undertaken the recruitment



process and in the said process, the petitioner got selected under the "Scheduled Caste Category" and whereas the third respondent got selected under the "General Category". In the merit list that was finalised by the second respondent, the third respondent was at serial number 11 and whereas the petitioner herein is at serial number 3 in the 'Scheduled Caste Category'.

2.2. After the petitioner and the third respondent were selected, the second respondent has conducted a counseling by giving an option to the petitioner and the third respondent and to the other similarly placed candidates to give their option for allotment to different Commune Panchayats. It was basing upon the said option given by the petitioner and the third respondent, both of them were allotted to Thirunallar Commune Panchayat and accordingly the petitioner joined duty on 03.03.1999 and whereas the third respondent joined duty on 04.03.1999.

2.3. While so, in the year 2012, the first respondent, with a view to filling up the post of Assistant Engineer by way of promotion from the post of Junior Engineer, has undertaken to prepare the seniority list of Junior Engineer working in the first respondent Panchayat and accordingly



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seniority list was communicated to the petitioner and the third respondent, calling for their objection, if any.

2.4. The petitioner herein raised an objection on the ground that the petitioner has joined in the first respondent Panchayat on 03.03.1999 and whereas the third respondent joined service on 04.03.1999 , i.e., subsequent to the petitioner, and therefore the petitioner is to be treated as senior to the third respondent in the cadre of Junior Engineer. It is also contended that though the petitioner and the third respondent were selected in the same selection process under common merit list, the same has lost significance as their posting in the first respondent Panchayat is by virtue of option exercised by the petitioner and the third respondent and therefore, the merit list that was drawn by the second respondent while selecting the petitioner, the third respondent and the other candidates is totally irrelevant insofar as finalising the seniority of the petitioner and the third respondent is concerned. However, the said contention of the respondent was rejected by the first respondent and a final seniority list came to be issued through the impugned Memorandum No.F.No.60/TNR.CP/Estt/2012 dated 10.08.2012. Aggrieved by the said Memorandum, the petitioner has filed the present Writ Petition.



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3. Heard Mr.V.Ajayakumar, learned counsel appearing for the petitioner, Ms. G. Djearany, learned Government Advocate (Puducherry) appearing for the respondents 1 and 2 and Mr.P.Sathish, learned counsel appearing for the third respondent.

4. It is not in dispute that the petitioner and the third respondent participated in the same recruitment process and got selected. It is also not in dispute that there was a merit list of the candidates who were selected in the same recruitment process. The learned Government Advocate appearing for the respondents 1 and 2 also placed before this Court the list of marks that were secured by the petitioner and the third respondent during the process of selection. In terms of the said mark list, the third respondent herein secured 54.65 marks and whereas the petitioner herein secured 40.95 marks. This is also not in dispute. The only contention raised by the learned counsel for the petitioner is that the entire selection process and the merit list drawn thereon has lost significance as the petitioner and the third respondent were allotted to the first respondent Panchayat only basing upon the option exercised by them and the petitioner has joined in the first respondent Panchayat one day



prior to the third respondent and therefore he is to be treated as senior to the third respondent.

5. This Court, having taking note of the admitted factual situation, is unable to agree with the contention of the learned counsel for the petitioner for the simple reason that the date of joining is only a fortuitous circumstances which can never be a basis for fixing the seniority. Once the petitioner and the third respondent were admittedly selected through the same selection process and the merit list was drawn, only the merit should be the basis while fixing the *inter se* seniority of the petitioner and the third respondent. Merely because the petitioner and the third respondent were given option to give their preference with regard to the allotment to concerned Panchayat, that does not mean that the selection list will loose its significance. It is settled law that the date of joining is totally an irrelevant factor in the matter of finalising the seniority list especially in the cases where the candidates were selected by way of direct recruitment process.



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6. In the circumstance, this Court does not find any merit in the present Writ Petition. Accordingly, the Writ Petition is dismissed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
bga

To:

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2. The Director,
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