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W.P.No.5386 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.5386 of 2021

R.Vijayaraj

...

Petitioner

/vs/

1. The Additional Chief Secretary to Government,
Municipal Administration and Water Supply
Department,
Secretariat,
Chennai – 9.

2. The Commissioner of Municipal Administration,
Chennai – 28.

3. P.A.Senthil

4. K.Mani

5. S.D.Somasundram

6. P.Vijai Karthy

7. P.Ramesh

... Respondents

(R4 to R7 are impleaded vide order dated 12.04.2020 made in
W.M.P.No.8683/2021 in W.P.No.5386/2021)



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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the first respondent vide G.O.[P] No.457 Municipal Administration and Water Supply Department, dated 28.12.2020 and also the order of the second respondent vide Na.Ka.No.32814/2019/F3 dated 22.01.2021 and to quash the same and consequently restore the petitioner's seniority and promote him as Assistant Engineer above P.A.Senthil in the panel drawn for the year 2020 with all attendant monetary benefits.

For Petitioner	...	Mr.J.Melwin Jabaz for Mr.G.Bharadwaj
For Respondents	...	Mr.K.H.Ravikumar Govt. Advocate for R1 and R2
		Mr.S.Ilamvaludhi for R3
		Mr.L.Chandrakumar for R4 to R7

ORDER

Heard Mr.J.Melwin Jabaz, the learned counsel for the petitioner, Mr.K.H.Ravikumar, learned Government Advocate for R1 and R2, Mr.S.Ilamvaludhi for R3 and Mr.L.Chandrakumar for R4 to R7.



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2. The petitioner who is said to be working as an Overseer / Draftsman with the second respondent has filed this writ petition challenging the order of the first respondent in G.O.(P) No.457 Municipal Administration and Water Supply Department, dated 28.12.2020 and also the order of the second respondent vide Na.Ka.No.32814/2019/F3 dated 22.01.2021 and to restore his seniority and promote him as Assistant Engineer above one P.A.Senthil in the panel drawn for the year 2020 with all attendant monetary benefits.

3. According to the learned counsel for the petitioner the petitioner's juniors have been promoted to the post of 'Assistant Engineer' by getting the advantage of relaxation of Rule 4 of the Tamil Nadu Municipal Engineering and Water Works Service Rules. The petitioner is seen to be standing in Sl.No.25 of the tentative list of Overseer / Draftsman as on 13.08.2020 and the persons who have got promoted vide impugned G.O.(P) No.457 Municipal Administration and Water Supply Department, dated 28.12.2020, were his juniors. Since the petitioner also possesses the same qualification, he should also be given with the advantage of the



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relaxation of the rule.

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4. Mr.K.H.Ravikumar, the learned Government Advocate, on instructions, submitted that without considering the seniority of those candidates who have been placed in Sl.Nos.33, 50, 55, 56 and 58, they have been promoted by relaxing the rules by taking into account of mere possession of 'B.E.' Degree.

5. It is not the contention of the respondents that the petitioner is not having the qualification to be considered for promotion. The petitioner has obtained 'B.E.' Degree in the year 2014 itself. In such case the petitioner should also have been considered along with the above five persons. Despite the petitioner being a senior in Sl.No.25, his juniors have been promoted and they are now functioning as 'Assistant Engineers'.

6. Since the respondents 1 and 2 ought to have considered the petitioner and promoted him on par with his juniors by giving notional effect from the date of his junior promoted to the post of 'Assistant



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Engineer' and with monetary effect from the date of assuming the charge in the promoted post, I feel the respondents 1 & 2 shall be directed to pass appropriate orders to consider the petitioner to be promoted to the post of Assistant Engineer in the next available vacancy or by creating any supernumerary post.

7. Accordingly, this Writ Petition is disposed with a direction to the respondents 1 and 2 to pass orders by considering the petitioner to be promoted to the post of 'Assistant Engineer' in the next available vacancy or by creating any supernumerary post, by giving notional effect from the date of promoting the juniors of the petitioner to the same post and with monetary benefit from the date of assuming the charge in the promoted post, within a period of six weeks from the date of receipt of a copy of this order. No costs.

07.03.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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R.N.MANJULA ,J.

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To:

1. The Additional Chief Secretary to Government,
Municipal Administration and Water Supply
Department,
Secretariat,
Chennai – 9.
2. The Commissioner of Municipal Administration,
Chennai – 28.

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