



W.P.Nos.13976 & 14030 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2024

PRONOUNCED ON : 30.10.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.Nos.13976 & 14030 of 2022

and

W.M.P.Nos.13228, 13230, 13274 & 13275 of 2022

1.N.Senthilkumar ... Petitioner in WP.13976/2022

1.P.Arunachalam ... Petitioner in WP.14030/2022

Vs.

1.The Additional Chief Secretary,
Commissioner of Sugar,
Aavin Illam, II Floor,
3A, Pasumpon Muthuramalingam Salai,
Nandanam, Chennai-600 035.

2.The Managing Director,
Amaravathi Co-Op Sugar Mills Ltd.,
Udumalpet,
Krishnapuram,
Tiruppur District.

3.S.Gopu,
Assistant Engineer,
Tirupattur Co-Op Sugar Mills Ltd.,
Tirupattur District.

4.M.Dhakshinamurthy,
Assistant Engineer (M),
Kallakuruchi II Co-Op Sugar Mills Ltd.,
Kallakuruchi District. ... Respondents in both WPs.



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Common Prayer:-Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in R.C.No.4113/SL2/2021-I dated 10.05.2022 and in R.C.No.4113/SL2/2021-III dated 18.05.2022 issued by the first respondent, quash the same and consequently direct the first respondent to promote the petitioner to the post of Deputy Chief Engineer as per seniority list published in the year 2016.

For Petitioners : Mr.K.Rajkumar
for Mr.N.K.Ponraj

For Respondent-1 : Mr.R.U.Dinesh Rajkumar, AGP

For Respondent-2 : Mr.M.Murali, GA

For Respondent : No Appearance
Nos.3 & 4

COMMON ORDER

Challenging the orders passed by the first respondent in R.C.No.4113/SL2/2021-I dated 10.05.2022 and in R.C.No.4113/SL2/2021-III dated 18.05.2022, the petitioners have preferred the present Writ Petitions. Further, the petitioners prayed this Court to direct the first respondent to promote them to the post of Deputy Chief Engineer as per seniority list published in the year 2016.



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2. Heard Mr.K.Rajkumar, learned counsel for the petitioners and Mr.R.U.Dinesh Rajkumar, as well as Mr.M.Murali, learned Additional Government Pleader and learned Government Advocate appearing on behalf of the respondents 1 and 2 respectively.

3. The short facts leading to the filing of the present petition is as follows:

3.1. The petitioners/Senthil Kumar & Arunachalam joined the service as Junior Engineer (M) in the National Co-Op Sugar Mills on 04.08.1994 & 11.08.1994 respectively and were promoted as Assistant Engineer (M) vide proceedings of the first respondent dated 04.09.2012 and now working under the second respondent. The first respondent is the Chief Administrator, as well as Appointing Authority of Common Cadre employees in All Co-Op and Public Sector Sugar Mills in Tamil Nadu. As per Rule 7(b) of the Tamil Nadu Co-Op Sugar Mills Managerial Common Cadre System Rules 2018, the posts falling under category B shall be filled up either by promotion or by direct recruitment or on consolidated basis. Through proceedings dated 12.02.2016, the first respondent published a provisional seniority list of Assistant Engineers as on 31.01.2016 wherein the petitioner was placed in 44th & 42nd position and the respondents 3 and 4 were placed



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in 47th, 50th and 59th positions respectively. Thereafter, the first respondent vide proceedings dated 13.01.2022 published another provisional seniority list which was contrary to the list published in the year 2016. Hence, the petitioners made their objections through a representation dated 23.05.2022 and 29.01.2022 respectively but no response.

3.2. Furthermore, the first respondent issued a proceeding dated 10.05.2022 in regard to the promotional post of Deputy Chief Engineer wherein the petitioners have to be placed at Serial No.15 and respondents 3 & 4 herein who were juniors to him are at S.No.5 and 8 respectively. Since the petitioner was relieved from the post of junior engineer on 08.09.2012 after promotion, he was unable to join as Assistant Engineer immediately, which has affected his seniority. As no final seniority list was published after provisional seniority list dated 13.01.2022, he could not challenge the same. Moreover, the impugned proceedings of the first respondent dated 10.05.2022 and 18.05.2022 were issued without considering the objections raised by the petitioner. He also made a detailed representation dated 23.05.2022 in this regard for a fresh panel including his name to the first respondent. However, there was inaction on the part of the first



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respondent. Hence, the petitioner has no other option except to knock out the doors of this Court for his right by way of this Writ Petition.

4. The learned counsel for the petitioners submitted that the petitioners herein possesses all qualifications for promotion as contemplated in G.O.Ms. No.132, Industries (MIC.2) dated 10.11.2018 and is eligible for promotion but the same was refused to them and the impugned orders have been passed by the first respondent which is in violation to the principles of natural justice without considering the objections raised by the petitioners against the provisional seniority list dated 13.01.2022. He further submitted that the respondents had erred in placing the respondents 3 and 4 in the proposed seniority list and also not taken into consideration of the objections raised by the petitioners. Moreover, the first respondent ought to have considered the date of appointment of the petitioners as Junior Engineer and was promoted as Assistant Engineer w.e.f. 05.04.2012 from National Co-Op Sugar Mills to MRK Co-Op Sugar Mills and was relieved only on 08.09.2012 to join in their promoted post, where no fault on the part of the petitioners. Hence, the learned counsel for the petitioners prayed that the orders impugned by the first respondent have to be set aside and to allow the present petitions.



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5. Per contra, the learned counsel for the first respondent submitted that the petitioners herein joined service as Junior Engineer (Mechanical) on 04.08.1994 & 11.08.1994 and was promoted to Assistant Engineer with effect from 04.09.2012 but joined the promoted post on 11.09.2012. He also submitted that as per the Managerial Common Cadre System Rules 2018, the promotion to Deputy Chief Engineer was on the basis of the date of joining in the post of Assistant Engineer. He further submitted that the first respondent published the promotion panel list for Deputy Chief Engineer on 10.05.2022 after careful examination and strictly following the Government Orders in G.O. Ms No.132, Industries (MIC-2) Department dated 10.11.2018, which contained 17 Assistant Engineers, wherein the petitioner has been placed in Serial No.15. The first respondent stated that the respondents 3 and 4 are not juniors to the petitioner as they have joined the Assistant Engineer post prior to the petitioner. As per Section 153 of Tamil Nadu Co-operative Societies Asct 1983, the petitioners have the provision to submit revision petition before the Government to revise the proceedings issued by the respondent and to seek remedy. He contended that the first respondent had followed the procedure properly as contemplated in



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the Rules and passed the orders dated 10.05.2022 and 18.05.2022 and hence, there is no infirmity or illegality in the orders passed as contended by the petitioner. Therefore, he submitted that the orders impugned, warrants no interference.

6. Considered the rival submissions made on either side and also perused the materials available on record.

7. On perusal of the case, it is predominant to note that the petitioner has been promoted as Assistant Engineer w.e.f. 05.04.2012 but however, he has relieved on 08.09.2012 belatedly and joined the promoted post, which has caused prejudice to the petitioner in acquiring his seniority for his further promotion as Deputy Chief Engineer. Since the delay in joining the post of Assistant Engineer was caused only due to the administrative reasons on the part of the first respondent and mere delay will not disqualify the petitioner for his promotion. As contended by the learned counsel for the petitioners, the respondents has not followed the Rule 7(b) of the Tamil Nadu Co-Op Sugar Mills Managerial Common Cadre System Rules 2018. At this juncture, it is relevant to highlight that the objections raised by the petitioner through representations were not considered by the



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respondents while preparing the seniority list for the post of Deputy Chief Engineer.

8. Considering all the above aspects, this Court is of the opinion that the matter can be remitted back to the first respondent. Accordingly, the subject matter in issue is remanded back to the first respondent for fresh consideration. This Court also directs the petitioners herein to make a fresh representation to the first respondent addressing their grievances, within a period of four weeks from the date of receipt of a copy of this order. On such representations being made, the first respondent shall endeavour to pass appropriate fresh orders, in accordance with law, within a period of six weeks from the date of receipt of such representations.

9. With the above observations and directions, the Writ Petitions stand disposed of. Consequently, connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

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Index: Yes/No
Order: Speaking/Non-Speaking
NCC : Yes/No
DP

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To

- 1.The Additional Chief Secretary,
Commissioner of Sugar,
Aavin Illam, II Floor,
3A, Pasumpon Muthuramalingam Salai,
Nandanam, Chennai-600 035.
- 2.The Managing Director,
Amaravathi Co-Op Sugar Mills Ltd.,
Udumalpet,
Krishnapuram,
Tiruppur District.



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VIVEK KUMAR SINGH, J.

DP

ORDER MADE IN

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and

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