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W.P.No.16527 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.16527 of 2024

G.Vijayasekar .. Petitioner
Vs.

1. The State of Tamil Nadu
Rep. by its Additional Chief Secretary to Government
Water Resources Department
Secretariat, Fort St. George
Chennai – 600 009.
2. The Engineer in Chief and Chief Engineer (General)
Water Resources Department
Chepauk, Chennai – 600 005. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus, calling for the records relating to the impugned proceedings issued by the second respondent in letter No.S2(4)/26505/2024 dated 26.03.2024 and to quash the same and consequently directing the respondents to reckon the seniority of the petitioner in the post of Junior Engineer based on year-wise panel and to consider the petitioner for promotion to the post of Assistant Engineer as per 2024-25 panel with all consequential and other attendant benefits.

For the Petitioner : Mr.G.Sankaran
Senior Advocate
for Mr.R.Kannan
For the Respondents : Mr.V.P.R.Elamparithi
Additional Government Pleader



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ORDER

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The writ petition is filed challenging the impugned order dated 26.03.2024.

2. By the said impugned order, the representation of the petitioner has been disposed of. In the said representation, the petitioner has requested for promoting him to the post of Assistant Engineer. The said prayer of the petitioner has been negated on the ground that his promotion to the post of Junior Assistant was only with effect from 22.02.2016 and for further promoting him to the post of Assistant Engineer, he should put in ten years of service as a Junior Engineer.

3. The contention of *Mr.G.Sankaran*, learned Senior Counsel on behalf of the petitioner is that even though the petitioner was promoted as Junior Assistant in the year 2016, he was considered in the panel for the year 2013-14. If the promotion of the petitioner was delayed because of administrative delay and coupled with the fact that there are no qualified hands in the feeder post of Junior



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Engineer, and when the post of Assistant Engineer is vacant, the respondents can consider granting relaxation of the requirement of ten years of service, especially when the petitioner is promoted by the panel year 2013-14.

4. *Per contra*, Mr.V.P.R.Elamparithi, learned Additional Government Pleader would submit that even on perusal of the service particulars, which are annexed along with the writ petition, it can be seen that as on the year 2013, the petitioner has not even put in four years of service as a Technical Assistant and therefore, even notionally, he cannot be considered for Junior Assistant post as for the year 2013-14. When the petitioner has not put in the minimum requirement of ten years of service as Junior Assistant, his promotion can be considered only in the year 2026 and not earlier.

5. I have considered the rival submissions made on either side and have perused the material records of the case.

6. The impugned order rejects the prayer of the petitioner on



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the ground that he has not put in ten years of service as Junior Engineer. If the concerned recruitment Rule mandates that ten years of service as Junior Assistant is an essential qualification, then, the Court cannot issue a Mandamus against the said Rule and the impugned order is in order, inasmuch as it rejects the request of the petitioner. Therefore, no fault could be found with the passing of the impugned order.

7. However, *Mr.G.Sankaran*, learned Senior Counsel appearing on behalf of the petitioner only contends that there are no qualified hands and the respondents have decided to fill up the vacancies in the post of Assistant Executive Engineer. In that case, it will be open for them to approach the Government seeking relaxation of the recruitment rule and consider the case of the petitioner. The petitioner is also said to be the senior most.

8. As far as relaxation is concerned, it is within the domain of the respondents. If there is urgency in filling up the post of Assistant Executive Engineer and if there are no qualified hands, in that case,



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the respondents would be justified in considering the relaxation.

That would depend upon the exigency of service and the decision of the respondents in accordance with law. Therefore, the petitioner can make a representation within two weeks from the date of receipt of a copy of this order, pointing out that there are no other qualified candidates in the respondent Department and it will be open for the respondents to consider the same, in accordance with law, as per their administrative exigency, merits and policies.

9. In view thereof, the writ petition stands disposed of on the following terms:

1. The impugned order dated 26.03.2024 is upheld; and
2. It will be open for the petitioner to make a representation within two weeks from the date of receipt of a copy of this order, bringing to the notice of the respondents that there are no other qualified hands in the respondent Department and it is for the respondents to consider the same, as



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per their law and policy, as expeditiously as possible, not later than a period of six weeks thereafter and pass appropriate orders thereon.

There shall be no order as to costs. Consequently, W.M.P.Nos.18123, 18124 and 18155 of 2024 are closed.

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Index : Yes/No

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D.BHARATHA CHAKRAVARTHY,J.

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