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W.P.No.44381 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MRS. **JUSTICE R.KALAIMATHI**

W.P.No.44381 of 2016  
ad WMP.No.2137 of 2017

P.M.Natarajan

... Petitioner

vs.

1. The Government of Tamilnadu,  
represented by its Principal Secretary to Govt.  
Public Works Department,  
Fort St.George,  
Chennai 600 009.

2.The Deputy Secretary to Government,  
Public Works Department,  
Fort St.George,  
Chennai 600 009.

3. The Chief Engineer,  
Ground Water,  
Public Works Department,  
Tharamani,  
Chennai 600 113.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to consider the representation dated 24.04.2016 by implementing the order of the Hon'ble Administrative Tribunal dated 08.02.1994 in O.A.No.1579 of 1993 and grant him the benefits of seniority in the post of Assistant Geologist and bring him



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to the Selection Grade in the post of Assistant Director (Geology) as on 01.08.1999 and grant him all attendant benefits including pay fixation and pay the arrears of monetary benefits within a stipulated period fixed by this court.

For Petitioner : M/s.A.Arulmozhi

For Respondents : Mr.S.Rajesh  
Govt.Advocate.

### **ORDER**

A direction is sought for to consider the representation of the petitioner dated 24.04.2016 for implementing the order of the Tamil Nadu Administrative Tribunal dated 08.02.1994 in O.A.No.1579 of 1993 and to grant him the benefits of seniority in the post of Assistant Director (Geology) and to bring him to the Selection Grade in the post of Assistant Director (Geology) as on 01.12.1983 and to promote as Joint Director (Geology) as on 01.08.1999 and to grant him all attendant benefits including pay fixation and pay the arrears of monetary benefits within a stipulated time fixed by this Court.

2. The petitioner submits that he is a retired Deputy Director (Geology) having rendered 30 years of unblemished, meritorious



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service in the Public Works Department. His seniority in the cadres of Assistant Geologist, Assistant Director (Geology), Deputy Director (Geology) and promotion as Joint Director (Geology) has been denied for the past 22 years in spite of the orders of the Tamil Nadu Administrative Tribunal dated 08.02.1994 which was confirmed by this Court and by the Hon'ble Supreme Court of India in Civil No.(S)CC.1255/1995 dated 03.04.1995. His representation in this regard was negatived by an order dated 30.03.2015 stating that the respondents have filed a Review Application. The petitioner would further submit that even another representation dated 26.04.2016 is kept pending without passing any orders. Hence, this writ petition.

3. Heard Smt.A.Arulmozhi, learned counsel, appearing for the petitioner and Mr.S.Rajesh, learned Government Advocate, appearing for the respondents.

4. Mr.S.Rajesh, learned Government Advocate, appearing for the respondents would submit that aggrieved by the orders of the erstwhile Tamil Nadu Administrative Tribunal, the Government in Public Works Department filed Special Leave Petition No.(S)(CC) No.1255 of 1995 before the Apex Court and it was dismissed by its order dated 03.04.1995. After examination of the entire case in detail in the wake



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of the dismissal of the Special Leave Petition filed by the Government, the Government decided to seek clarification by way of filing Review Application. Accordingly, the said Review Application was filed before the Tamil Nadu Administrative Tribunal and the Miscellaneous Application for condonation of delay was numbered as M.A.No.5561 of 1996.

5. The petitioner was appointed as Geological Assistant in the Work Charged Establishment on 15.06.1970. On 01.09.1971, he was appointed temporarily under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules, Part II, as Geological Assistant. This post was re-designated as Assistant Geologist, but the petitioner did not joint the said post as such. Meanwhile, the respondents had called for applications for appointment to the post of Assistant Geologist [later re-designated as Assistant Director (Geology)] by direct recruitment by a High Power Selection Committee.

6. The petitioner participated in the selection process and got selected to the post of Assistant Director (Geology) in G.O.Ra.No.1758, Public Works Department dated 13.11.1973. The petitioner joined as Assistant Director (Geology) on 01.12.1973. Meanwhile adhoc Rules were framed for the said post in G.O.Ms.No.879, Public Works



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Department dated 18.07.1978.

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7. The petitioner appeared for the special test conducted by the Public Service Commission for regularizing the services of Geological Assistant( subsequently re-designated as Assistant Geologist). He was selected and placed as Sl.No.3 in the Selection List. It is pertinent to note that he did not join in the said post. But he continued to work in the higher category of Assistant Director (Geology) on temporary basis. His services were regularized in G.O.Ms.No.2400, Public Works Department dated 15.12.1984 instead of 01.12.1973 which is the date of his appointment as Assistant Director. He was promoted as Deputy Director on 27.02.1991 in G.O.Ms.No.311, Public Works Department dated 27.02.1991.

8. Following the decision of this Court in W.P.Nos.8125 & 8126 of 1982 dated 08.08.1988, a direction was given to the fourth respondent to revise the seniority with reference to the date of temporary appointment instead of the ranking by the Public Service Commission. Orders were issued in G.O.Ms.No.2022, Public Works Department dated 10.12.1991, and by Govt.letter (Ms.)No.223, Public Works Department dated 15.02.1993 issued by the Chief Engineer, Ground Water, the revised seniority list was issued.



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9. Mr.S.Rajesh, learned Government Advocate appearing for the respondents would further submit that as per the Government Letter, the petitioner was ranked as the last among the candidates who were appointed in the year 1971, as per the Government D.O.Letter No.145889/D2/1991-5, Public Works Department dated 23.04.1992. He would further contend that as per the revised seniority list, the petitioner did not join in the post of Geological Assistant (later re-designated as Assistant Geologist) was placed in Rank No.10 in the list of Assistant Geologist.

10. In the seniority list issued by the third respondent, Chief Engineer in Letter Ms.No.223 dated 15.02.1993, the petitioner has been placed in Sl.No.10 on the ground that he was appointed under Rule 10(a)(i) of the Tamil Nadu State and Sub-ordinate Services Rules by the Director of Groundwater in proceedings No.A1/S471/71 dated 01.09.1971. The reasons given by the Department is that he did not join in the post of Assistant Geologist and therefore he was ranked as last among the candidates appointed in the above said proceedings.

11. It is relevant to note that though he did not join in the said post, the department failed to take note of the fact that the petitioner



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was already working in the higher post. But he appeared for the examination in the absence of orders of regularization for the higher post to which he was appointed based on the selection by a High Power Committee.

12. It is pertinent to note that the Tamilnadu Administrative Tribunal in its order has observed that "... In such circumstances, the proper course would have been to place him at the top of the list as a person who had already been working in a higher category and had not worked in the lower capacity at all, but had participated in the Special Selection". " ..... it is only fair that he should have precedence over such persons and be placed on the top of the list. This will be fully in confirmity with the directions of this Court for seniority on the basis of temporary service".

13. The Tamil Nadu Administrative Tribunal concluded that giving a direction to the Government to examine this aspect, with reference to his temporary appointment following a selection in 1973 and his continuance in the higher post of Assistant Director (Geology) a direction was given to place him on the top of the list in the category of Asst.Geologist selected by TNPSC.



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14. The Secretary to the Tamil Nadu Public Service Commission addressed to the Chief Engineer, Public Works Department, Ground Water Wing, Chepauk, Madras, stating that in the selection list for the post of Geological Assistant his name is placed in Sl.No.3. But his name has been brought down to Sl.No.10 on the ground that the petitioner did not join the lower post though he was holding the post of System Director at the relevant point of time. Hence, the petitioner herein filed O.A.No.1579 of 1993 before the Tamil Nadu Administrative Tribunal sought for relief as follows:-

- "1. To quash the revised seniority list approved by the Government in Letter No.223, Public Works Department, dated 15.02.1993
2. Regularise his services in the higher post of Assistant Director (Geology) with effect from 1.12.1973 and also seeking stay of the operation of the revised seniority pending disposal of the original application".

15. The said Original Application was closed, by its order dated 08.02.1984. The Tamil Nadu Administrative Tribunal has observed that the petitioner should have precedence over such persons and be placed at the top of the list which means, the seniority should not have been



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disturbed.

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16. Aggrieved against the said order passed in O.A.No.1579 of 1993 dated 08.02.1994, the Government filed SLP in Civil No.(S)CC.1255 of 1995 and the SLP was dismissed confirming the order in O.A.No.1579 of 1994 passed by the Tamil Nadu Administrative Tribunal.

17. Subsequently, Mr.K.Santhanam, (placed in Sl.No.1) filed W.P.No.18176 of 2006 before this Court for a direction to fix his seniority over and above, the 5<sup>th</sup> respondent/ petitioner herein namely P.M.Natarajan with effect from the date of temporary appointment followed by selection in the year 1973. This Court in the said writ petition has observed as under :-

2 " ..... The petitioner has filed Original Application before the Tribunal on the apprehension that on implementing the order of the Tribunal made in O.A.No.1579 of 1993 dated 08.02.1994, the petitioner's seniority may be affected.

3. The said apprehension is no longer valid in view of the counter affidavit filed by the respondents. In paragraph-14, it is stated that the respondents are attempting to give seniority to the applicant in O.A.No.1579 of 1993 i.e., the fifth respondent in the present case, is not correct".



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19. As per the orders of this Court in W.P.Nos.8125 & 8126 of 1982 dated 08.08.1988, a direction was given to the fourth respondent namely, the Chief Engineer of Ground Water, Public Works Department to refix the seniority with reference to the date of temporary appointment instead of ranking by the Public Service Commission. The petitioner was temporarily appointed as Geological Assistant under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules on 01.09.1971.

20. It is relevant to note that he did not join the said post as he was not relieved from the Work Charged Establishment. Therefore, as per the orders of Tamil Nadu Administrative Tribunal in O.A.Nos.1310, 1578 & 1579 of 1993. Taking into consideration the date of his appointment as 01.09.1971 and the date of the temporary appointment as ordered by this Court in W.P.Nos.8125 & 8126 of 1982, in all fairness, his name should be placed under Mr.K.Santhanam.

21. Based on the aforesaid observations, this writ petition is allowed with a direction to the petitioner to give a fresh representation to the first respondent, preferably, within a period of two weeks from



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the date of receipt of a copy of this order. On such receipt of the representation, the first respondent shall consider the representation of the petitioner. The said exercise shall be completed within a period of twelve weeks from the date of receipt of such representation from the petitioner, on merits in accordance with law. There is no order as to costs. Consequently, connected M.P is closed.

23.07.2024

Index : Yes/No  
Internet : Yes/No  
Neutral Citation : Yes/No  
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To

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**R.KALAIMATHI, J.,**

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