



W.A.(MD)No.501 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

AND

THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.501 of 2017

and

C.M.P.(MD)No.4283 of 2017

1.The Principal Secretary to Government,
Public Works Department,
Fort St. George,
Chennai – 600 009.

2.The Chief Engineer (General),
Public Works Department,
Kamarajar Salai,
Chennai.

...Appellants

/Vs./

1.K.A.Abdul Hameed

2.The Principal Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai – 600 009.

...Respondents



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PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to allow the writ appeal and to set aside the order passed by this Court in W.P.(MD)No.9316 of 2016 dated 22.03.2017 by allowing the writ appeal.

For Appellants : Mr.M.Prakash
Additional Government Pleader
For Respondents : No appearance (R1)
Mr.M.Prakash
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by **V.BHAVANI SUBBAROYAN, J.**)

This writ appeal has been filed by the State against the order passed by this Court in WP(MD)No.9316 of 2016 dated 22.03.2017, which was filed for filling up existing vacancies in the post of Chief Engineer (Regular), Public Works Department, as per the panel notified by the first appellant / first respondent in G.O.No.9, Public Works (A1) Department, dated 06.01.2016 and to appoint the writ petitioner, as a Chief Engineer (Regular).



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2. The case of the writ petitioner is that he entered into the service of Public Works Department as Assistant Engineer on 08.07.1991, promoted as Assistant Executive Engineer on 22.09.1999 and as Executive Engineer on 26.09.2007 and thereafter, promoted as Senior Engineer on 08.11.2013. The Department prepared the panel of eligible persons fit for promotion to the post of Chief Engineer for the year 2015 – 16, which was approved by the first appellant / first respondent, including the name of the writ petitioner for promotion. Even though the writ petitioner is eligible for promotion, he has not been given so. Hence, the writ petitioner filed the writ petition with the aforesaid prayer.

3. The learned Single Judge by considering the case of the similarly placed person by relaxing the amended Rule 5 of the Special Rules for Tamil Nadu Engineering Services, Branch-I (Public Works), directed the first appellant / first respondent to grant promotion to the writ petitioner. Challenging the same, the Department preferred this writ appeal.



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4. The learned counsel appearing for the appellants submits that a person must satisfy the eligibility criteria of one year left over service before retirement at the time of actual promotion for being considered for promotion to the post of Chief Engineer (Regular). The panel drawn for the year 2015 - 16 was exhausted, as there were no persons with the requisite minimum period of one year left over service before retirement. The writ petitioner also did not have one year left over service before retirement on the actual date of promotion. He was retired on 30.04.2017. The writ petitioner has not proved his case to be considered as a special case as that of one A.Natarajan, who has been granted relaxation of Rule 5 of the aforesaid Rules. He further submits that the persons those who have less than one year of left over service are eligible for promotion as Special Chief Engineers, as and when their juniors are promoted as Chief Engineers as per the aforesaid Rules.

5. Heard the learned Additional Government Pleader appearing for the appellants and perused the materials placed before this Court. Even though notice has been sent to the respondents, none appears on behalf of the respondents.



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6. It is seen that the panel period was exhausted, as there were no persons with the requisite minimum period of one year left over service before retirement as per the Rule 5 of the aforesaid Rules. The writ petitioner was retired on 30.04.2017. On 30.04.2016, two vacancies arose due to the retirement, for which, one Mohanraj and Valarmathi were to be considered, but they could not be considered for promotion, since they were also not having one year left over service before retirement.

7. It is further seen that in the case of the similarly placed person, namely, A.Natarajan, the relaxation was required for only one day. In the case on hand, only after 30.04.2016, the writ petitioner / first respondent was to be considered. Infact, the panel drawn for promotion to the post of Chief Engineer (Regular) for the year 2015 – 16 was exhausted before 30.04.2016 itself. Hence, the writ petitioner / first respondent's case cannot be considered as a special case. the writ petitioner / first respondent was not qualified for promotion to the post of Chief Engineer (Regular), since he had no one year left over service



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before retirement at the time of actual date of promotion. The approved promotion panel was exhausted for the reason that there were no persons having one year left over service and there is no question of granting any promotion to the writ petitioner / first respondent. Accordingly, the order of the writ Court dated 22.03.2017 in WP(MD)No.9316 of 2016 is set aside and this writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(V.B.S.J.) & (K.K.R.K.J.)
06.03.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes
sm



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WEB CODE: TO:-

- 1.The Principal Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai – 600 009.



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and
K.K. RAMAKRISHNAN, J.

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Judgment made in
W.A.(MD)No.501 of 2017

Dated:
06.03.2024