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W.P.No.5958 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2025

**Coram:
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.5958 of 2015

G.Thennagaselvan

...Petitioner

Versus

1.The Collector,
Office of the Collectorate,
Tiruvarur District, Tiruvarur – 610 051.

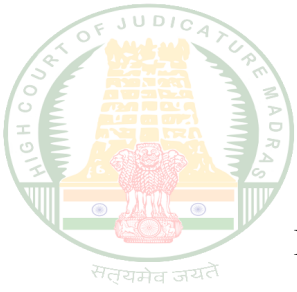
2.The Chief Engineer (G),
Highways Department,
Cheapauk, Chennai – 600 005.

3.The Director,
Rural Development & Panchayat Raj Department,
Panagal Maligai, Saidapet, Chennai – 600 015.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the Chief Engineer, Highways Department the 2nd Respondent herein to fix the seniority of the Petitioner in the appropriate place as on date when the Petitioner service was regularized on 21.09.1984 in the seniority list and consequently, grant the eligible salary arrears and retirement benefits as per the seniority to the Petitioner as Junior Engineer in the 2nd Respondent's Department.

For Petitioner	:	Ms.Srinithi Malavika for Mr.N.Senthilkumar
For Respondents – 1 & 2	:	Mr.G.Nanmaran, Special Government Pleader



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For Respondent – 3

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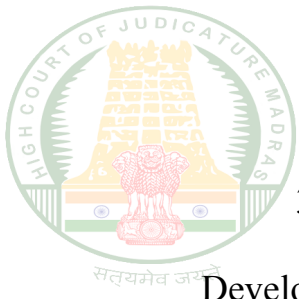
Mr.M.Murali,
Government Advocate

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ORDER

The relief sought in this writ petition is to direct the 2nd Respondent to fix the seniority of the Petitioner in the appropriate place as on date when the Petitioner's service was regularized on 21.09.1982 in the seniority list and consequently, grant the eligible salary arrears and retirement benefits as per the seniority to the Petitioner as Junior Engineer in the 2nd Respondent's Department.

2. The brief facts of the case are that the Petitioner is a Diploma Holder in Civil Engineering and was originally appointed as an Assistant Draftsman on 22.09.1980 in the Highways and Rural Works Department at Madurandhagam, Chengalpet Division in self sufficient scheme. Subsequently, the Petitioner was posted in Rural Development & Panchayat Raj Department on deputation. Thereafter, the Petitioner was working as an Overseer in the said Department. The service of the Petitioner was regularized vide Order dated 21.09.1982 of the Divisional Engineer, Highway Department, Paramagudi.



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3. The persons equally placed along with the Petitioner in the Rural Development Department & Panchayat Raj Department were promoted as Block Engineers. Similarly, the persons equally placed in the Highways Department were promoted as Junior Engineers.

4. However, the Petitioner was not given any promotion neither by the Highways Department nor by the Rural Development & Panchayat Raj Department even though the Petitioner had completed 29 years of service. Hence, the Petitioner made a Representation dated 20.05.2009 to the 3rd Respondent, requesting to fix his seniority or surrender him to Highways Department, pursuant to which, the 3rd Respondent passed an Order dated 14.06.2010, directing the 2nd Respondent to give necessary posting orders to the Petitioner in the Highways Department.

5. Subsequently, the Petitioner had approached the 2nd Respondent Department in person and gave a Representation dated 25.06.2010 in this regard. However, the 2nd Respondent vide Letter dated 16.07.2010 bearing No.2318/Admin 5(1)/2010-14, refused to take the Petitioner into the Highways Department for the reasons that the post of “Overseer” is not



available in the Highways Department and that the Petitioner had worked as an “Overseer” in the 3rd Respondent Department for a long period.

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6. Aggrieved by the aforesaid Letter dated 16.07.2010, the Petitioner filed a writ petition in W.P.No.28980 of 2010 which was disposed of by this Court vide Order dated 21.12.2010. Operative portion of the Order dated 21.12.2010 in W.P.No.28980 of 2010 reads as under:

“4. Considering the above said facts and circumstances of the case, the Writ Petition stands disposed of with a direction against the second respondent to consider the representation of the petitioner dated 25.06.2010 for the purpose of refixing the seniority of the petitioner from the date of his original regularization i.e., 21.09.1982 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”

7. Pursuant to the aforesaid Order dated 21.12.2010 of this Court, the 2nd Respondent vide Letter dated 09.11.2011, sought the willingness of the Petitioner to be transferred to the Highways Department subject to the condition that the Petitioner will be offered only a post of Assistant Draftsman without considering the seniority and service of the Petitioner as per Section 9(d) of the Tamil Nadu State and Subordinate Service Rules.

8. In response to the aforesaid Letter dated 09.11.2011, the Petitioner



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vide Letter dated 23.11.2011, clarified to the 2nd Respondent that he had not voluntarily opted to serve in Rural Development & Panchayat Raj Department and also, requested the 2nd Respondent to consider his 29 years of service and fix seniority as per the date of regularization of his service on 21.09.1982. However, the 2nd Respondent did not consider the Petitioner's Letter dated 23.11.2011. Hence, left with no other alternative, the Petitioner has filed this writ petition for the relief stated *supra*.

9. Heard the learned counsel on either side and perused the materials available on record.

10. It is to be noted that in Paragraph No.12 of the Counter Affidavit filed by the 2nd Respondent, it has been stated as follows:

“12. The Petitioner's Representation dated 25.06.2010 and his Letter dated 07.02.2012 was considered and rejected vide Memo No.Admin.5(1)/1626/2011 dated 19.11.2012 by the 2nd Respondent since the Petitioner's demands were contrary to Proviso to Rule 9(d) of General Rules for Tamil Nadu State & Subordinate Services and since the post of Assistant Draughtsman is not a feeder category to the post of Junior Engineer. The said order has attained finality since the Petitioner has not taken any action against the said order and has thereby accepted the said order of the 2nd Respondent. The Petitioner has filed this Writ Petition with the same relief on 25.01.2015 before superannuating from Government Service. The Petitioner retired on 31.01.2015 A.N.”



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11. From a perusal of Paragraph No.12 of the Counter Affidavit filed by the 2nd Respondent, it is evident that the Petitioner's Representation dated 25.06.2010 as well as Letter dated 07.02.2012 were considered and rejected by the 2nd Respondent vide Memo dated 19.11.2012 bearing No.Admin.5(1)/1626/2011. Therefore, it has to be held that the relief sought by the Petitioner in this writ petition has already been considered by the 2nd Respondent. Hence, this writ petition is liable to be dismissed.

12. Accordingly, this Writ Petition is dismissed. However, liberty is granted to the Petitioner to challenge the Memo dated 19.11.2012 bearing No.Admin.5(1)/1626/2011 issued by the 2nd Respondent, in the manner known to law. No costs.

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Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

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C.SARAVANAN, J.



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