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D.Mohan. Vs. the Chief Engineer

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Court : Chennai

Decided On : Jul-26-2012

Judge : Vinod K.Sharma, J.

Acts : Constitution of India - Articles 226

Appeal No. : W.P. No.12405 of 2007 (O.A.No.3362 of 2002)

Appellant : D.Mohan

Respondent : The Chief Engineer

Advocate for Def. : Mr.R.A.S.Senthil Vel, Adv

Advocate for Pet/Ap. : Mr.R.Muthukannu, Adv

Judgement :

Prayer: Writ petition is filed under Article 226 of Constitution of India for the issuance of a writ in the nature of Certiorari, to call for the records of the respondent dated 12.06.2001 issued in the Ref.no.Memo.No.S.4(3)/85881/99 and quash the same and further direct the respondent to absorb the petitioner as work inspector/work clerk with effect from 1.1.83 and to award the consequential benefits.

ORDER

1. The petitioner has approached this Court with a prayer for issuance of a writ in the nature of Certiorari, to quash the impugned order Memo.No.S.4(3)/85881/99 dated 12.06.2001, declining the request of petitioner for appointment after relaxing of the rules.

2. The petitioner was appointed as Man Mazdoor on daily wage basis in the respondent department. The petitioner was promoted as Head Mazdoor on daily wage basis in the year 1984. The recommendations were made by the Superintending Engineer, Madurai Circle for absorbing the petitioner as Work Clerk, but instead of absorbing the petitioner as Work Clerk, the petitioner was absorbed as Head Mazdoor.

3. The submission of petitioner is, that the persons, who were subsequently appointed, were absorbed as Work Inspector Grade-II, i.e. equivalent to the post Work Clerk.

4. The petitioner, being aggrieved by the action of the respondents, filed a representation dated 24.01.1996.

5. The petitioner thereafter filed O.A.No.5525 of 1999, wherein directions were issued to the respondents to pass orders on the representation filed by petitioner. It was in pursuance to the direction issued by the learned Tamil Nadu Administrative Tribunal, that the impugned order has been passed, rejecting the request of petitioner, on the ground, that the petitioner was not qualified for appointment as Work Clerk.

6. The petitioner has approached this Court for issuing direction to the respondents to appoint the petitioner by relaxing the rule, as was done in the case of others.

7. The relief prayed for cannot be granted at this stage, as the petitioner admittedly has retired from service, therefore, it is not possible for this Court to issue direction for relaxation of rules for appointment of the petitioner, who has attained the age of superannuation, and cannot be appointed. The writ petition has been rendered infructuous. Even otherwise petitioner has neither impleaded the juniors, who may

have been appointed as Work Clerks, by relaxing rule, nor has placed on record any order passed by respondents showing appointment by relaxing the rules. The writ petition therefore also lacks merit.

8. The writ petition is disposed of, as having been rendered infructuous. No costs.

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