
(2003) 06 MAD CK 0003

In the Madras High Court

Case No : Writ Petition No's. 19200, 19201 and 19266 of 1993

V. Sankaran, T.L. Narayana Murthy and R. Revathi APPELLANT

Vs

The Madras Metropolitan Water, Supply and Sewerage Board RESPONDENT
and Others

Date of Decision : 27-06-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 06 MAD CK 0003

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : K. Rajkumar, for the Appellant; B. Shanthakumar, for Respondents 1-2, for the Respondent

Judgement

P.K. Misra, J.—All the three petitioners in these writ petitions have prayed for quashing the proceedings No.

M.M.W.S.S.B/P&A/STF/RA1/44416/93 dated 12.10.1993 so far as it relates to them. Under the aforesaid order, the respondent No.1 while

promoting Steno Typists, Typists and Junior Assistants to the post of Assistant in MMWSSB, had reverted the petitioners on account of want of

vacancy. Three petitioners and the respondents 4 to 6 were selected for being appointed as Junior Assistants through same selection process. The

respondent No.3 was appointed as Revenue Collector. Three petitioners had joined in service earlier than the respondents 4,5 and 6. In the

absence of any formal seniority list, one of the petitioners, namely the petitioner in W.P.No.19200/93 was temporarily promoted as Assistant for

sometime, but subsequently he was reverted. On the basis of the date of joining, a panel was prepared for the year 1990-91 for the post of

Assistants wherein the petitioners were shown ahead of the respondents 4 to 6. In January 1991, Thiru V. Sankaran (petitioner in WP.19200/93)

and Thiru T.L. Narayana Murthy (petitioner in WP.19201/93) were appointed as Assistants on leave vacancy. Similarly other petitioner was

subsequently appointed. However, on 1.10.1993, a seniority list of junior assistants was prepared as per Rule 21(a) of the M.M.W.S.S.B

(Special Regulation), according to which seniority has to be counted on the basis of the rank and reservation at the time of initial selection

irrespective of the date of joining. In the said seniority list, the petitioners in WP.Nos.19200,19266 and 19201/93 respectively were shown at

Serial Nos.115,119 and 120 and respondents 4,5 and 6 were shown at 108,100,101 respectively. In other words, the respondents 4 to 6 were

shown as seniors. On the basis of the aforesaid seniority, promotion was effected on 12.10.1993. Accordingly the respondents 4,5 and 6 were

promoted. Similarly the respondent No.3 who was a Revenue Collector (another feeder category) was promoted and the three petitioners were

reverted for want of vacancy. The aforesaid order of reversion has been challenged. Subsequently, however, the petitioners have been promoted.

2. In the aforesaid background of facts, which are no longer in dispute, the learned counsel appearing for the petitioners has submitted that since

the petitioners had been promoted, even though temporarily on the basis of the existing seniority counted on the basis of date of joining, they

should not have been reverted in October, 1993, when the seniority list was re-drawn by applying the principles contained in Regulation 21. It is

further contended by way of filing a further affidavit that on an earlier occasion when the question of reversion of some engineers came up, the

Board had created supernumerary posts instead of reverting such persons, who had been promoted on officiating basis and the same consideration

should have been extended to the petitioners.

3. From the counter affidavit filed on behalf of the Board it is apparent that on the basis of the date of joining, since the petitioners had joined

earlier than the respondents 4 to 6, they had been promoted and subsequently when the seniority list was drawn up on the basis of Regulation 21,

the respondents 4 to 6 were found senior to the petitioners and had to be promoted and the petitioners were reverted for lack of vacancy.

4. Such action of the Board by itself cannot be characterised as arbitrary and illegal. However, the action of the Board in creating supernumerary posts for engineers when such question had cropped up on a different occasion may prima facie appear to be discriminatory. The circumstances under which such orders had been passed are not before this Court. It is of course true that the court while deciding a matter should not give a direction for perpetuating an illegal order and merely because some of the engineers had been protected, similar direction should not be issued.
5. Therefore, while not quashing the order of reversion, it is made clear that the period during which the petitioners had worked as Assistants shall be counted towards service for the purpose of their pension only, but no increment in salary or seniority can be claimed on that basis.
6. Subject to the aforesaid observation, all the writ petitions are disposed of. No costs.