

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

C O R A M:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.A. Nos.1478 & 1489 of 2015
and
W.P. No. 28260 of 2015

W.A.No. 1478 of 2015:-

1. The Government of Tamil Nadu
rep. By Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St George, Secretariat,
Chennai 600 009.
2. The Project Director,
Tamil Nadu Road Sector Project II,
Chennai 600 028. ... Appellants/Respondents

Vs.

1. The Association of Tamil Nadu
Highways Engineers,
No.35V, Taluk Office Road,
Saidapet, Chennai 600 015,
rep. By General Secretary ... Respondent/Petitioner
2. P. Packiam ... Respondent

W.A.No. 1489 of 2015:-

... Appellant/3rd Respondent

P.Packiam

1. The Association of Tamil Nadu,
Highways Engineers,
No. 35V, Taluk Office Road,
Saidapet, Chennai 600 015,
rep. By General Secretary. ... 1st Respondent/Petitioner

2. The Government of Tamil Nadu
rep. By Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St George, Secretariat,
Chennai 600 009.

3. The Project Director,
Tamil Nadu Road Sector Project II,
Chennai 600 028.

... 2 & 3rd Respondents/
Respondents 1 & 2

W.P.No. 28260 of 2015:-

1. The Association of Tamil Nadu,
Highways Engineers,
No. 35V, Taluk Office Road,
Saidapet,
Chennai 600 015,
rep. By General Secretary. Petitioner

Vs.

1. The Government of Tamil Nadu
rep. By Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St George, Secretariat,
Chennai 600 009.

2. The Project Director,
Tamil Nadu Road Sector Project II,
Chennai 600 028.

3. P. Packiam

... Respondents

Prayer:-Appeals filed under Clause 15 of Letters Patent
to set aside the interim order dated 11.09.2015 passed in M.P.
No. 3 of 2015 in W.P. No. 28260 of 2015.

Writ Petition in WP No. 28260 of 2015 filed under
Article 226 of the Constitution of India seeking a writ of
Certiorarified Mandamus calling for the records of the first
respondent herein in G.O.D.No. 185 Highways and Minor Ports
(HK1) Department dated 26.08.2015 and quash the same and

consequently forbear the respondents 1 and 2 herein from continuing the services of the 3rd respondent herein as Chief Engineer, TNRSP-II, Government of Tamil Nadu and direct the first respondent to fill up the said post from among the available qualified Superintending Engineers in the Highways Department, Government of Tamil Nadu.

For appellants

in WA No.1478/2015 : Mr. AL. Somayaji
Advocate General
assisted by
Mrs. A. Srijayanthi
Special Government Pleader

For appellants

in WA No.1489/2015 : Mr. R. Muthukumarasamy
Senior Counsel
for
Ms. Narmadha Sampath

For respondents

in WA No.1478/2015 : Mr. R. Muthukumarasamy
Senior Counsel
for
Ms. Narmadha Sampath
Mr. AR.L. Sundaresan
Senior counsel
for
M/s. MA. Gouthaman - R1

For respondents

in WA No.1489/2015 : Mr. AL. Somayaji
Advocate General
assisted by
Mrs. A. Srijayanthi
Special Government Pleader -R2 & R3

Mr. AR.L. Sundaresan
Senior counsel
for
M/s. MA. Gouthaman - R1

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For petitioner
in WP No.28260/2015 : Mr. AR.L. Sundaresan
Senior counsel
for
M/s. MA. Gouthaman

For Respondents : Mr. AL. Somayaji
Advocate General
assisted by
Mrs. A. Srijayanthi
Special Government Pleader -R1 & R2

Mr. R. Muthukumarasamy
Senior Counsel
for
Ms. Narmadha Sampath - R3

COMMON JUDGMENT

(Delivered by SATISH K. AGNIHOTRI, J.,)

Since the issue involved in both the intra Court appeals and the writ petition is intertwined, they are considered and decided by this common judgment.

2. The writ petitioner-association filed the instant writ petition questioning the validity of G.O.(D).No. 185, Highways and Minor Ports (HK1) Department, dated 26.08.2015, whereunder, the services of one P.Packiam as Chief Engineer/ the appellant in W.A.No. 1489 of 2015 was extended for another six months with effect from 03.09.2015.

3. The learned Single Judge, while considering the miscellaneous petition being M.P.No. 3 of 2015 filed in the aforesaid writ petition, granted interim stay of the said Government Order. Thereagainst, the State Government has preferred an appeal being W.A.No. 1478 of 2015 and the private respondent therein, the incumbent of the office has also preferred an appeal being W.A.No. 1489 of 2015.

4. It is brought to our notice that the State Government has passed a resolution as under:-

" The post of Chief Engineer for Tamil Nadu Road Sector Project-II is vacant from 15.01.2014 (more than

5 months) Principal Secretary, Highways and Minor Ports Department in the letter cited 4th above directed Project Director, Tamil Nadu Road Sector Project-II to fill up the newly created post of Chief Engineer through outsourcing for the time being and the same can be reviewed later, depending on the availability of suitable persons.'

5. On the basis of the above said resolution, the second respondent has sent a communication dated 12.06.2014 to the third respondent as under:-

- "Ref: 1. G.O.Ms.No.205, Highways and Minor Ports Department, dated 26.12.2013.
2. G.O.Ms.No.4, Highways and Minor Ports Department, dated 13.01.2014.

I am directed to state that in the G.O. First cited, orders were issued sanctioning a post of Chief Engineer for TNRST II-PIU with date of mobilization from 1.4.2014. Further an amendment was issued in the G.O. Second cited, for the effective date of implementation of the post of Chief Engineer on 15.01.2014.

2. Now, the Government has decided to fill up the newly created post of Chief Engineer for TNRSP II-PIU through outsourcing for the time being and the same can be reviewed later, depending on the availability of suitable persons.

3. I am also to state that if any suitable person is available from the regular panel for the post Chief Engineer for TNRSP II-PIU, the services of the incumbent appointed through outsourcing may be terminated.

4. I am, therefore, to request you to fill up the newly created post of Chief Engineer for Tamil Nadu Road Sector Project II-PIU through outsourcing and send the action taken report to Government at the earliest."

6. On a perusal of the aforesaid resolution taken by the State Government as well as the letter dated 12 June 2014, it is evident that the post of the Chief Engineer for TNRSP II-PIU has been filled up through outsourcing. However, it was also made clear that if any suitable person is available from the regular panel for the post of Chief Engineer, the services of the incumbent selected through outsourcing may be terminated.

The period of six months granted on 03 September 2015 will come to an end on 02 March 2016.

7. Learned counsel appearing for the writ petitioner fairly submits that the authorities be directed to make appointment to the post of Chief Engineer as per the resolution as well as the letter dated 12 June 2014 in future after the term of the present incumbent comes to an end.

8. The learned Advocate General appearing for the State Government fairly submits that no further extension will be granted to the present incumbent and the post of Chief Engineer will be filled up strictly in accordance with the resolution passed by the State Government as aforestated in the letter dated 12 June 2014.

9. A feeble submission is made to question the locus of the writ petitioner-association seeking a writ of certiorari to question the appointment of the third respondent/ appellant in W.A.No. 1489 of 2015. However, in the facts situation as aforestated, the learned senior counsel appearing for the writ petitioner-association fairly submits that the writ petition be disposed of without further adjudication. We record the submission of the learned senior counsel for the writ petitioner-association.

10. In that view of the aforestated premise, we are not inclined to go into the question of locus standi of the writ petitioner. The interim stay granted on 11th September, 2015 in M.P.No. 3 of 2015 stands vacated. Consequently, the writ appeals and the writ petition stand disposed of. No costs. Connected miscellaneous petitions in M.P. Nos. 1 of 2015 in W.A.Nos. 1478 and 1489 of 2015 and M.P. No. 2 and 4 of 2015 in W.P.No. 28260 of 2015 are closed.

Sd/-
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Assistant Registrar(CS II)

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Sub Assistant Registrar

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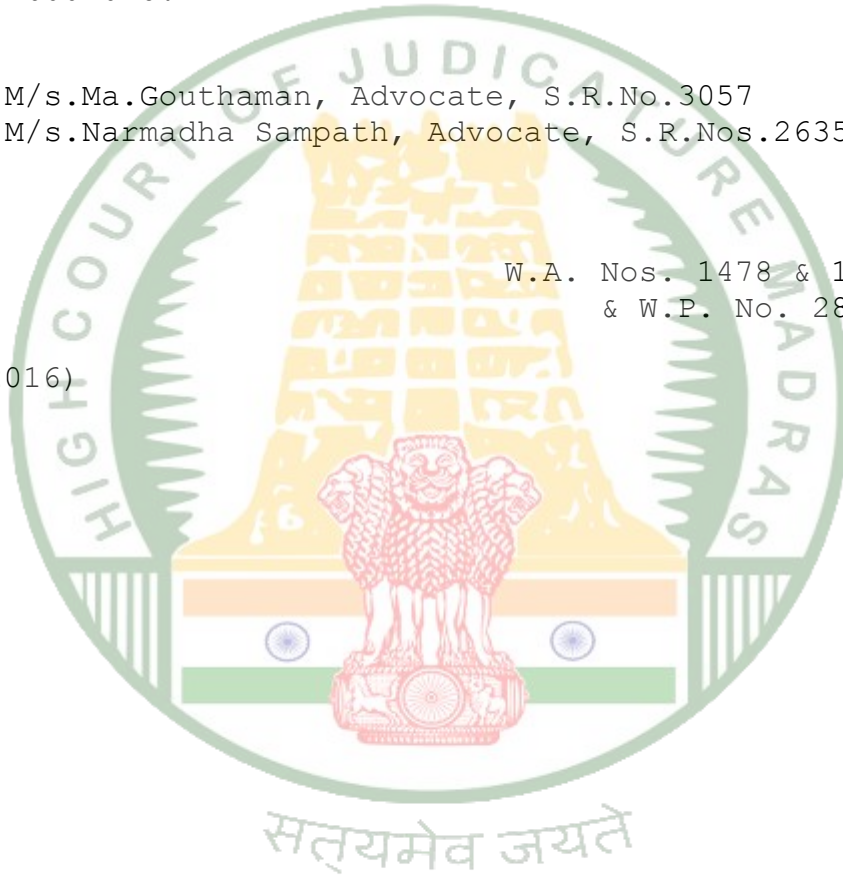
1. The Principal Secretary to Government,
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Highways and Minor Ports Department,
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Chennai 600 009.
2. The Project Director,
Tamil Nadu Road Sector Project II,
Chennai 600 028.

+2cc's to M/s.Ma.Gouthaman, Advocate, S.R.No.3057

+2cc's to M/s.Narmadha Sampath, Advocate, S.R.Nos.2635 & 2642

W.A. Nos. 1478 & 1489 of 2015
& W.P. No. 28260 of 2015

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