

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.11256 of 2016
and WMP.No.9764 of 2016

K.Shanmugam

...Petitioners

.Vs.

1. The State of Tamil Nadu
rep. by the Secretary to Government,
Highways and Rural Works Department,
Secretariat, Chennai-600 009.
 - 2 The Director General,
Highways Department, Chepauk,
Chennai-600 005.
 - 3 The Divisional Engineers,
Highways (Construction and
Maintenance) Department,
Krishnagiri, Krishnagiri District.
- ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to extend the benefits of G.O.Ms.No.856, Public Works Department, dated 01.06.1977, by notionally promoting the petitioner to the post of Road Inspector Grade I with effect from 25.09.1985 and consequently, revise his pay and other benefits including the pensionary benefits in the light of the order passed by this Court in W.P.No.7738 of 2008 and batch of cases dated 12.12.2012.

For petitioner

: Mr.R.Singaravelan
for Ms.M.Srividhya

For Respondents

: Mr.R.Vijayakumar,
Additional Government Pleader

ORDER

This petition has been filed seeking for a direction, directing the respondents to extend the benefits of G.O.Ms.No.856, Public Works Department, dated 01.06.1977, by notionally promoting the petitioner to the post of Road Inspector Grade-I with effect from 25.09.1985 and consequently, revise his pay and other benefits including the pensionary benefits, in the light of the order passed by this Court in W.P.No.7738 of 2008 and batch of cases dated 12.12.2012.

2.The petitioner, who was selected for the post of Road Worker, joined duty on 06.10.1972 and he was promoted to the post of Road Inspector on 25.09.1980 and subsequently, he was reverted from the said post on 01.07.1983. Later on, he was promoted to the post of Road Inspector on 10.01.1984 and again, he was reverted to the post of Road Worker on 26.07.1985. After sometimes, he was re-promoted to the post of Road Inspector on 01.10.1992 and on 31.10.2007, he retired from service on voluntary retirement scheme. In this background, the grievance of the petitioner is that he is entitled to the benefit of G.O.Ms.No.856, Public Works Department, dated 01.06.1977, which indicates that a person, after completion of 5 years of service as Road Inspector Grade-II, is entitled to be considered for promotion to the post of Road Inspector Grade-I. Since the respondents have not applied the said G.O. uniformly to the petitioner and similarly placed persons, a batch of Writ Petitions was filed before this Court, seeking the benefit of G.O.Ms.No.856, Public Works Department, dated 01.06.1977, and this Court, vide order dated 12.12.2012, has directed the respondents as follows:

"8.The respondents are not justified in interpreting the said G.O. only to say that the person, who are possessing the said enhanced qualification alone are entitled to the promotion to the post of Road Inspector Grade-I. As already stated supra, the qualification prescribed to the post of Road Inspector Grade-II and the qualification prescribed to the promotion to the post of Road Inspector Grade-I are totally different and distinguishable and therefore, the respondents cannot confuse the issue and consequently, to deny the benefit of the petitioners. Accordingly, by considering all the facts and circumstances of the case, I find every force in the claim made by the petitioners and consequently, I set aside the impugned order passed by the first respondent and direct the respondents to implement G.O.Ms.No.856, Public Works Department, dated 01.06.1977, in the

case of the petitioners by giving communal promotion also and disburse all the benefit available to them within a period of 12 weeks from the date of receipt of a copy of this order."

3. Pursuant to the same, the respondents have also passed an order dated 16.10.2014, implementing the said G.O.. In the case of the petitioner alone, the said benefit has not been extended. The representation of the petitioner is also pending and therefore, he has sought for a direction to the respondents to consider the representation of the petitioner, in the light of the order passed by this Court in W.P.No.7738 of 2008 and batch of cases dated 12.12.2012 along with G.O.Ms.No.856, Public Works Department, dated 01.06.1977.

4. Mr. R. Vijayakumar, learned counsel appearing for the respondents sought for a reasonable time to consider the same.

Accordingly, this Writ Petition is disposed of, with a direction to the respondents to consider the representation of the petitioner within a period of eight weeks from the date of receipt of a copy of this order on merits and in accordance with law, in the light of the order passed by this Court in W.P.No.7738 of 2008 and batch of cases dated 12.12.2012 along with G.O.Ms.No.856, Public Works Department, dated 01.06.1977. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mps

To

1. The Secretary to Government,
The State of Tamil Nadu
Highways and Rural Works Department,
Secretariat, Chennai-600 009.
- 2 The Director General,
Highways Department, Chepauk,
Chennai-600 005.

3 The Divisional Engineers,
Highways (Construction and Maintenance) Department,
Krishnagiri, Krishnagiri District.

+1 cc to M/s.M.Srividhya Advocate sr.19434

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