

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.13688 of 2006 (T)

O.A.No.1583 of 1993

K.Shanmugam

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. By its Secretary to Government,
Public Works Department,
Fort St.George, Chennai - 9.
 - 2.The Secretary to Government,
Government of Tamil Nadu,
Personnel and Administration Reforms Department,
Fort St. George, Chennai - 9.
 - 3.The Chief Engineer,
Highways and Rural Works,
Chepauk, Chennai - 5.
 - 4.The Tamil nadu Public Service Commission,
Rep. By its Secretary,
Mount Road, Chennai - 2.
 - 5.The Tamil Nadu Highways and Rural Works Department,
Engineering Association,
Rep. By its General Secretary,
Velacherry, Chennai - 42.
 - 6.M.Pakkirisamy, A.D.E. (H)
 - 7.S.V.Mani, A.D.E. (H)
 - 8.P.Krishnasamy, A.D.E. (H)
- ... Respondents

PRAYER: Writ Petition came to be numbered by transfer of O.A.No.258 of 2003 on the file of the Tamil Nadu Administrative Tribunal praying to call for the records relating to the order passed by the first respondent in G.O.Ms.No.561, Public Works Department, dated 06.04.1992, and quash the same and consequently, to fix the seniority of the Assistant Divisional

Engineers in the Tamil Nadu Highways Engineers Service as per the Rules, with a further direction to prepare the list of approved candidates for the category of Assistant Divisional Engineer, every year estimating the vacancies and applying necessary rules strictly and then promoting the candidates from the list so prepared and consequently appoint the petitioner as full member of the Assistant Divisional Engineer.

For Petitioner : Mr. Shanmughakani

For Respondents : Mr. A. Kumar, Spl. GP

ORDER

The petitioner filed O.A.No.1583 of 1993 before the Tribunal seeking to quash the order passed by the first respondent, vide G.O.Ms.No.561, Public Works Department, dated 06.04.1992, in preparing a panel fit for promotion to the post of Divisional Engineers in the Tamil Nadu Highways Engineering Service for the year 1991, with a further direction to the respondents to fix the seniority of the Assistant Divisional Engineers in the Tamil Nadu Highways Engineers Service as per the Rules and then appoint the petitioner as full member of the Assistant Divisional Engineer.

2. According to the petitioner, the Tamil Nadu Highways Engineering Service relates to the Rule of Reservation. Therefore, the exemption granted under Rule 12 of the Tamil Nadu Highways Engineering Service is not maintainable. Hence, the very promotion list published has to be set aside and recalled.

3. It is seen from the reply affidavit filed by the respondents that the panel has been prepared by following the Rules of Reservation and at the time of preparation of panel for the year 1972-73, there were no sufficient qualified Assistant Engineers. Hence, the Government, vide G.O.Ms.No.1127, Public Works Department, dated 13.07.1973, issued orders to consider the Ex.Minor Irrigation Supervisor and not Ex.Minor Irrigation Overseers, along with the Supervisor in Highways and Rural Works Department in the ratio of 1:1 and thereafter, the Government, due to non-availability of qualified Assistant Engineers, have absorbed them in the vacancies reserved for Assistant Engineers. Subsequently, they were regularly appointed for the post of Assistant Divisional Engineer vide G.O.Ms.No.1960, Transport Department, dated 14.10.1986, after relaxing the Rule 9(b) of the Tamil Nadu Highways Engineering Service. Thus, it is clear that only due to non-availability of the qualified candidates, the Government have decided to fill up the post of Assistant Engineers from the cadre of Ex.Minor Irrigation Supervisor, who have put in 10 years of service, in the ratio of 1:1.

4. Therefore, at this later point of time, the prayer so made by the petitioner in seeking to quash the impugned panel prepared fit for promotion to the post of Divisional Engineers in the Tamil Nadu Highways Engineering Service for the year 1991, vide G.O.Ms.No.561, Public Works Department, dated 06.04.1992, cannot be quashed, as nothing survives for further adjudication. Hence, the writ petition fails and the same is dismissed. No Costs.

-s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary to Government,
Public Works Department,
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- +1 cc to the Government Pleader sr.30921

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