

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.42516 of 2016
and
W.M.P.No.36414 of 2016

V.Jothi

....Petitioner

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,
Perambalur.
 - 4.The Superintending Engineer,
High Ways (Construction
and Maintenance) Department,
Villupuram.
- Respondents

Writ 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 01.01.1983 and consequently, to 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, Senior Counsel
for M/s.M.Srividhya

For respondents : Mr.K.Dhananjayan, Spl GP

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ORDER

This writ petition has been filed by the petitioner, 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 01.01.1983 and consequently, to 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.

2-1.It is stated by the petitioner that he joined the service as Road Inspector Grade-II on 21.07.1972 and he had completed five years of service in the post of Road Inspector Grade-II, on 01.01.1988. As per the Government Order in G.O.Ms.No.856, dated 01.06.1977, the qualification for the post of Road Inspector Grade-II was enhanced from a pass in SSLC to a pass in SSLC + bifurcated course of Engineering. While enhancing the educational qualifications, the Government has reduced the experience qualification in the post of Road Inspector Grade-II for further promotion to the post of Road Inspector Grade-I, from 10 years to 5 years. The grievance of the petitioner is that though the petitioner's juniors were given promotion by giving the benefit of the said GO, the said benefit was not extended to the petitioner herein. The petitioner was given promotion to the post of Road Inspector Grade-I only on 01.01.1988, after a lapse of nearly 18 years, whereas his juniors in the year 2002 were given promotion immediately after completion of 5 years of service in the post of Road Inspector Grade-II as per G.O.Ms.No.856, dated 01.06.1977. As per the said GO, the petitioner should have been promoted to the post of Road Inspector Grade-I with effect from 01.01.1983 and if it was given, he would have received more monetary benefits. A similarly issue was considered by this Court in a batch of writ petitions in W.P.(MD).No.7738 to 7749 of 2008 and by order dated 12.12.2012, this Court allowed the said writ petitions. The conclusion portion of the said order dated 12.12.2012 reads as follows_

"8.The respondents are not justified in interpreting the said GO only to say that the persons who are in possession of 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 benefits 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 respondent and direct the respondents to implement G.O.Ms.No.856, Public Works Department, dated 01.06.1977 in the case of the petitioner by giving communal promotion also and disburse all the benefits available to them within a period of 12 weeks from the date of receipt of a copy of this order."

The petitioner herein retired from service on 30.06.2006 and now, he is aged about 60 years. Hence, the petitioner has come forward with the present writ petition seeking to direct the respondents to extend the benefits of G.O.Ms.No.856, Public Works Department, dated 01.06.1977, by notionally promoting him to the post of Road Inspector Grade-I with effect from 01.01.1983 and to give consequential benefits.

3.Heard the learned senior counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4.Though the writ petition is filed for a large relief seeking to direct the respondents to extend the benefits of G.O.Ms.No.856, Public Works Department, dated 01.06.1977, by notionally promoting him to the post of Road Inspector Grade-I with effect from 01.01.1983 and to give consequential benefits, this Court is not inclined to give such a positive direction. However, considering the facts and circumstances of the case and the submissions made on either side, without expressing any opinion on the merits of the claim made by the petitioner, this Court directs the petitioner to give a fresh representation to the 3rd respondent, along with a copy of this order, within a period of two weeks, from the date of receipt of a copy of this order. On receipt of such representation, the 3rd respondent is

directed to consider the same, in the light of the decision of this Court in a batch of writ petitions in W.P.(MD).No.7738 to 7749 of 2008, dated 12.12.2012, and to pass appropriate orders, on merits and in accordance with law, with a period of two weeks thereafter.

With the above directions, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

-Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

ssv

To

1. The Secretary to Government, 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,
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- 4.The Superintending Engineer,
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+1 cc to the Government Pleader sr 71697

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