



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2016

CORAM

THE HON'BLE Dr. JUSTICE S.VIMALA
W.P(MD) No.18156 of 2015

WEB COPY

S.Krishnakumar

... Petitioner

-vs-

The Divisional Engineer,
Highways (Construction and Maintenance),
Thirukokarnam, Pudukkottai-2.

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to include the petitioner's name in the Seniority list for the post of Road Inspector Grade-II in the respondent Department on the basis of the Petitioner's representation dated 25.09.2015 within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.G.Mathavan

For Respondent : Mr.T.R.Janarthanan
Govt. Pleader

ORDER

This writ petition has been filed, seeking to direct the respondent to include the petitioner's name in the Seniority list for the post of Road Inspector Grade-II in the respondent Department on the basis of the petitioner's representation dated 25.09.2015.

2.Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondent.

3. The case of the petitioner is that he was appointed as Gang Mazdoor by the Divisional Engineer Highways, (Construction and Maintenance) Department, Pudukkottai on 19.11.1997; that his services were regularized on 21.11.1998 and he has completed his pre-foundation course in the Madurai Kamaraj University during the year 2007-2008, which is equal to the pass in 10th standard from a recognized school for the purpose of entry into service register; that his name was also entered into the Service Register in the year 2008 itself; that his name was placed in the seniority list prepared by the Department on 02.11.2010 and 14.12.2011 to the



post of Road Inspector, Grade-II and his pre-foundation course certificate was also sent to the Director of School Education Department for verification, which in turn was forwarded to the District Educational Officer, Pudukkottai, who approved his pre-foundation course certificate and sent a communication to the respondent.

3.1. The further case of the petitioner is that one of the similarly placed person, namely, S.Baskaran earlier filed a writ petition in W.P.(MD) No.8620 of 2008, seeking direction to include his name in the seniority list of Road Inspector Grade II for Madurai Division as per G.O.Ms.No.528 (P&AR) Department dated 18.05.1985 and the same was allowed by this Court and that since the petitioner is also standing on the same footing, his name should also be considered and placed before his immediate junior in the seniority list; that as the Department was in the process of preparing the seniority list, the petitioner made a representation on 25.09.2015 to the respondent as well as to the Assistant Divisional Engineer (Construction and Maintenance) Highways Department, Pudukkottai for including his name in the zone of consideration for promotion, which did not evoke any response from the respondent and hence, the petitioner is before this Court with the relief stated supra.

4. Learned counsel for the petitioner would submit that the case of the petitioner is squarely covered by the judgment of this Court in the case of **S.Baskaran vs. The Chief Engineer (Highways), Chepauk, Chennai-5 and another [W.P. (MD) No.8620 of 2008], decided on 22.12.2008**, and the same order may be passed in this case also. Learned counsel for the petitioner would also bring to the notice of this Court the G.O.Ms.No.528 (P&AR) Department dated 18.05.1985.

5. For the sake of ready reference, Paragraph No.3 of the said Government Order in G.O.Ms.No.528 (P&AR) Department dated 18.05.1985 is extracted as under:

"The Government, after careful consideration, directs that the Pre-Foundation Course of the Madurai Kamaraj University Open University be recognised as equivalent to the 10 years S.S.L.C. of the Tamil Nadu Government for purpose of entry into service in the State. The Government also directs that the two years Foundation Course of the Madurai Kamaraj University-Open University be recognised as equivalent to Higher Secondary (+2) course of the Tamil Nadu Government for purpose of entry in Public Services in the State."

6. It is the submission of the learned counsel for the petitioner that since the petitioner has already passed Pre-Foundation Course run by the Madurai Kamaraj University, it should be treated as equal to 10th standard and if it is so done, there

can be no impediment in promoting the petitioner as Road Inspector Grade II.

7. Learned Government Pleader would submit that as per G.O.Ms.No.193 dated 01.08.2008, the minimum educational qualification for a Gang Mazdoor for being considered for promotion to the post of Road Inspector Grade II is a pass in 10th Standard from a recognized school. But, the petitioner has studied only upto 8th standard and so, he was not considered for promotion. But the fact remains that the petitioner has passed the Pre-Foundation course run by Madurai Kamaraj University, which shall be equated to 10th standard from a recognized school as per G.O. extracted supra and therefore, the petitioner is entitled for being promoted as Road Inspector Grade II.

8. The perusal of the Government Order in G.O.Ms.No.528 (P&AR) Department dated 18.05.1985 (extracted supra) makes it clear that mere pass in Pre-Foundation Course from Madurai Kamaraj University shall be equated to pass in 10th standard from a recognized school for the purpose of entry into service in the State of Tamil Nadu and there is no justification for the respondent in denying promotion to the petitioner. Therefore, the petitioner is entitled for being considered for promotion as Road Inspector Grade II as per G.O.Ms.No.193 dated 01.08.2008.

9. In the result, this writ petition is disposed of with direction to the respondent to consider the petitioner for promotion to the post of Road Inspector Grade II based on his seniority and other legal requirements. It is needless to state that his case has to be considered before his immediate junior in the seniority list for the purpose of promotion. No costs.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

ar

To:

The Divisional Engineer,
Highways (Construction and Maintenance),
Thirukokarnam, Pudukkottai-2.

+1CC to Mr.G.Mathavan, Advocate Sr.No.55877

+1CC to Spl.Government Pleader Sr.No.56106.

GJM/SK/SKN/SAR-3-17.11.16-3p-4C

W.P (MD) No.18156 of 2015
26.09.2016