

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Coram

Dated: 11.01.2017

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition No.938 and 939 of 2017

M.Ramamoorthy ... Petitioner in W.P.No.938/2017

K.Suganthi ... Petitioner in W.P.No.939/2017

-Vs-

1. The Government of Tamilnadu,
rep. By its Principal Secretary,
Fort St.George,
Chennai - 9.
 2. The Department of Highways and Minor Ports
rep. By its Secretary,
Secretariat,
Chennai -9.
 3. The Director General,
Highways Department,
Chennai -5.
 4. Tamilnadu State Construction Corporation
rep. By its Managing Director,
Koyambedu,
Chennai - 106.
- ... Respondents in both the W.Ps.

Prayer in W.P.No.938/2017

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 27.10.2016 and absorb his service permanently in the Highways Department as Assistant Engineer.

Prayer in W.P.No.939/2017

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 02.11.2016 and absorb her service permanently in the Highways Department as Assistant Engineer.

For Petitioners : Mr.D.Muthukumar
for M/s.Paul and Paul

For Respondents : Mr.O.Selvam, Government Advocate.

COMMON ORDER

By consent, both the writ petitions are taken up for final disposal.

2. The petitioner in W.P.No.938 of 2017 was recruited by the 4th respondent as a Trainee in Civil Engineer on 04.11.1982 through Employment Exchange and thereafter appointed as Site Engineer Grade-II, in the cadre of Junior Assistant, on 01.06.1984 and continued till 30.06.1992. Subsequently, he was promoted as Site Engineer Grade-I, in the cadre of Assistant Engineer, on 01.07.1992. The petitioner would further aver that during the year 1997, the Government had created 384 posts of Additional Union Engineers in the rank of Assistant Engineers, at the rate of one Assistant Engineer per Panchayat Union in the Rural Development Department and the Government had ordered that those post will be filled upon on deputation/ by transfer of service basis for a period of three years on temporary basis and the Assistant Engineers for these posts were drawn and he was appointed on deputation on 13.08.1997 as Additional Union Engineer in the cadre of Assistant Engineer in Nagapattinam District and worked in Rural Development Department till 31.12.2007 and thereafter, the posts of Engineers who were working on deputation, were surrendered due to the recruitment done through Tamilnadu Public Service Commission and accordingly, 24 Assistant Engineers have been surrendered and later on as per G.O.Ms.No.314 Highways (KH2)Department dated 29.12.2007, the petitioner was appointed in the Highways Department as Assistant Engineer and posted at Mayiladudurai. The grievance expressed by the petitioner is that though positive recommendations, for absorption, have been made by the 4th respondent to the Director General, Highways Department,

Chennai, dated 05.04.2011, followed by another recommendation made by the Principal Director (Additional in charge), Highways Department, Chennai - 5, vide letter No.37057/Nir2(1)/2007 dated 11.07.2011, no orders have been passed by the 1st respondent. Since he is reaching the age of superannuation shortly, his service should be regularised and he should be given all consequential and other attendant benefits.

3. The petitioner in W.P.No.939 of 2017 was recruited by the 4th respondent as Site Engineer Grade-I Trainee, in the cadre of Assistant Engineer through Employment Exchange and she was appointed on 31.05.1991 and she was brought into regular time scale of pay from 01.07.1992 and completed her probation on 30.06.1994. The petitioner would further aver that during the year 1997, the Government had created 384 posts of Additional Union Engineers in the rank of Assistant Engineers, at the rate of one Assistant Engineer per Panchayat Union in the Rural Development Department and the Government had ordered that those posts will be filled upon on deputation/ by transfer of service basis for a period of three years on temporary basis and the Assistant Engineers for these posts were drawn and she was appointed on deputation on 09.03.2000 as Additional Union Engineer in the cadre of Assistant Engineer in Perambalur District and worked in Rural Development Department till 31.12.2007 and thereafter, the posts of Engineers who were working on deputation, were surrendered due to the recruitment done through Tamilnadu Public Service Commission and accordingly, 24 Assistant Engineers have been surrendered and later on as per G.O.Ms.No.314 Highways (KH2) Department dated 29.12.2007, the petitioner was appointed in the Highways Department as Assistant Engineer and posted at Dindigul. The grievance expressed by the petitioner is that despite positive recommendations have been made by the 3rd respondent to the 1st respondent, no orders have been passed.

4. Learned counsel appearing for the petitioners would submit that in the light of the fact that the petitioner in W.P.No.938 of 2007 is reaching the age of superannuation shortly and the petitioner in W.P.No.939 of 2017 is aged 52 years, the first respondent may be directed to pass appropriate orders as expeditiously as possible.

5. Per contra, Mr.O.Selvam, learned Government Advocate appearing for the respondents 1 to 3 would submit that since selection to the post of Engineers comes within the ambit of Tamil Nadu State Public Service Commission, there is some delay and a direction may be issued to the 1st respondent to pass orders at an early date.

6. This Court heard the rival submissions and perused the materials available on record.

7. Though the petitioners pray for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first respondent to act on the recommendation of the 4th and 3rd respondents in Letter No.37057/Nir2(1)/2007 dated 11.07.2011 and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioners. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Principal Secretary,
Government of Tamilnadu, Fort St.George,
Chennai - 9.
2. The Secretary,
Department of Highways and Minor Ports
Secretariat, Chennai -9.
3. The Director General,
Highways Department, Chennai -5.
4. The Managing Director,
Tamilnadu State Construction Corporation
Koyambedu, Chennai - 106.

+2cc to Mr.Paul & Paul, Advocate, S.R.No.2807
+1cc to the Government Pleader, S.R.No.3047

VG(CO)
RS(01/02/2017)

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