

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 09.11.2017

CORAM:
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.490 of 2013 and
M.P.No.1 of 2013

1.The Principal Director,
State Highways Department,
Chepauk, Chennai - 600 005.

2.The Chief Engineer,
State Highways Department,
Chepauk, Chennai - 600 005.

3.The Divisional Engineer,
State Highways Department,
Tiruchirappalli Division,
Trichy District.

....Appellants

Vs

1.V.Paramasivam
2.S.Thirumurugan
3.R.Rajendran
4.P.Panner Selvam
5.R.Karthikeyan

....Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent, against the order made in W.P.No.1821 of 2011 dated 25.06.2012. Writ petition filed under article 226 of the constitution of India praying for the issuance of a writ of certiorarified Mandamus to call for the records pertaining to the proceedings Se.Mu.Ka.No.2480/2010/A6 dt.25.11.2010 on the file of the 3rd respondent and quash the same and consequently to direct the 3rd respondent to consider the petitioner for promotion to the post of Road Inspector Grade II in accordance with Letter No.25187/Ad-4(2)/2006 dt.21.9.2010 of the 1st respondent.

For Appellants : Ms.A.Srijayanthi
Special Govt.Pleader

For Respondents: Mr.S.Nambi Arooran for R1
Mr.K.V.Ananthakrishnan for R2 to R5

J U D G M E N T

K.K. SASIDHARAN, J.

The alleged suppression of material particulars by the first respondent during his initial entry into the service resulted in the denial of promotion to him by the appellants. The learned single Judge allowed the writ petition filed by the first respondent on the ground that the notification issued by the appellants for recruitment to the post of Gang Mazdoors indicated that candidates who had passed tenth standard were eligible and as such, there was no necessity for the first respondent to suppress the factum of his pass in the tenth standard while making application. The learned single Judge directed the appellants to consider the case of the first respondent for promotion to the post of Road Inspector Grade II with effect from the date on which his juniors were promoted. Feeling aggrieved by the said order, the appellants have come up with this intra court appeal.

2. The learned Special Government Pleader contended that the first respondent suppressed the material particulars while making application for the post of Gang Mazdoor. According to the learned Special Government Pleader, even though the first respondent passed tenth standard, he made a claim that he failed in ninth standard and accordingly, got employment. This was proved subsequently and as such, further promotion was denied to him. It was further contended that the learned single Judge was not correct in directing the appellants to give promotion to the first respondent notwithstanding the false claim made by him.

3. We have also heard the learned counsel for the first respondent and the learned counsel appearing on behalf of respondents 2 to 5.

4. The first respondent was denied promotion on the ground that while submitting application to the post of Gang Mazdoor, he suppressed the material information with regard to his pass in the tenth standard. It is the case of the appellants that the first respondent claimed that he failed in ninth standard and as such, he was eligible for appointment to the post of Gang Mazdoor.

5. The learned single Judge on verification of records found that the advertisement issued by the State Highways Department for appointment to the post of Gang Mazdoors contained a provision that even those who had passed tenth standard were entitled to apply to the post of Gang Mazdoor. There was no need for the first respondent to make a false claim that he passed only ninth standard.

6. The appellants denied promotion to the first respondent only on the ground that he entered the service with a false claim. The appellants initiated disciplinary proceedings against the first respondent. The proceedings were later closed by order dated 16 June, 2015. Therefore, it is evident that as on today, there is no proceedings pending against the first respondent. We are in agreement with the findings recorded by the learned single Judge that there was no necessity to the first respondent for suppression of information with regard to his qualification.

7. It is the admitted case of the parties that the respondents 2 to 5 are juniors to the first respondent. Since promotion was denied on a wrong premise, the learned single Judge was correct in allowing the writ petition. We do not find any error or illegality in the order passed by the learned single Judge warranting our interference.

8. In the result, the intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Director,
State Highways Department,
Chepauk, Chennai - 600 005.

2.The Chief Engineer,
State Highways Department,
Chepauk, Chennai - 600 005.

3.The Divisional Engineer,
State Highways Department,
Tiruchirappalli Division,Trichy District.

+ 1 cc to Mr. K.V. Ananthakrishnan, Advocate SR.79858
+ 1 cc to Mr. S. Nambi Arooran, Advocate SR.79443

W.A No.490 of 201

GMR(CO)
EU(07/12/2017)