

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.588 of 2018
and
C.M.P.No.5739 of 2018

The Principal Secretary to Government,
Highways and Minor Ports (HK1) Department,
Secretariat, Chennai 600 009. Appellant

Versus

R.Manohar Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters
Patent against the order dated 14.7.2017 passed in W.P.No.8771
of 2013 on the file of this court.

WP.NO.8771/2013:

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 order of the
respondent herein passed in Letter No.5823/HK.I/2012-5 dated
24.12.2012 rejecting the petitioners representation for
promotion as Divisional Engineer and quash the same and
consequently direct the respondent herein to consider the
petitioner for promotion as Divisional Engineer under rule 39(d)
of Tamil Nadu State and Subordinate Service Rules with attl
consequential benefits.

For appellant : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader
For respondent : Mr.Ravi Shanmugam

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some
time.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge in setting aside the impugned order and directing the appellant to consider and grant promotion to the writ petitioner as Divisional Engineer with effect from the date of his juniors were promoted with all consequential and attendant benefits.

3. It appears that on the ground of parity, the learned Single Judge directed for extension of the benefit of promotion on the ground that two other persons facing charges that are similar to ones levelled against the respondent herein, had been granted promotion.

4. The case of the appellant is that direction for extending promotion ought not to have been granted by the learned Single Judge since already criminal case is pending and charge sheet is filed. The stand taken by the learned counsel for the respondent is that the matter is of the year 2003 and no steps have been taken for completion of the same at the end of the appellant and as such, the respondent shall not be discriminated and therefore, there is nothing wrong in the order passed by the learned Single Judge.

5. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that the a criminal case is filed against the respondent and the same is pending since 2003 for more than 15 years which stands in the way of granting promotion to him. However, the appropriate remedy available to the respondent is to approach the criminal court either to have a quick disposal or quashing of the charge sheet filed, if so advised.

6. The order passed by the learned Single Judge directing extension of the benefit of promotion on the ground that two other persons had been granted promotion appears to be out of context and it cannot be endorsed. However, we make it clear that it is for the respondent to approach the appropriate forum to redress his grievance and thereafter, his case could be considered as in the case of other two persons. The writ appeal is allowed in part in modification of the order passed by the learned Single Judge to the above extent. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

ssk.

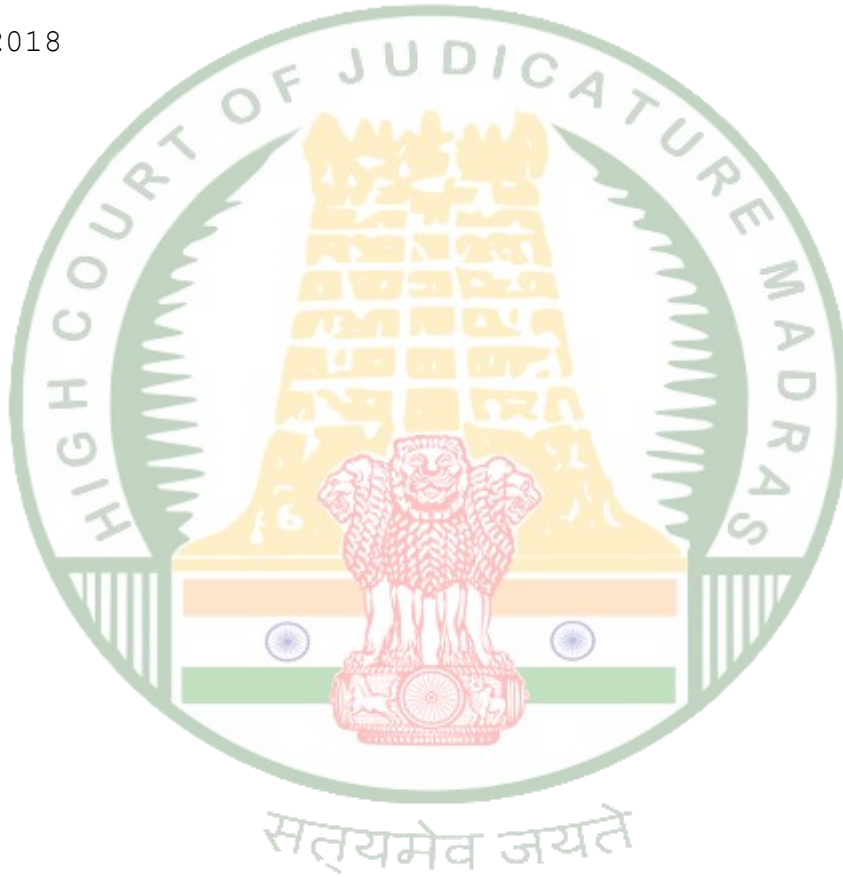
To:

The Principal Secretary to Government,
Highways and Minor Ports (HK1) Department,
Secretariat, Chennai 600 009.

+1cc to Mr.Ravi Shanmugam, Advocate sr.no.37168
+1cc to Government Pleader in sr.no.37465

W.A.No.588 of 2018

cp(co)
nr 11/07/2018



WEB COPY