



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.220 of 2018

M.Veerasingham

... Appellant / Petitioner

Vs.

1.The Secretary to Government,
Department of High Ways and Minor Ports,
Fort St. George,
Chennai- 600 009.

2.The Director General (Highways),
Department of Highways,
Chepauk,
Chennai.

3.The Divisional Engineer (Highways)
Department of Highways,
Sivagangai.

... Respondents / Respondents

PRAYER:This appeal is filed under Clause 15 of the Letters Patent,
to set aside the order passed dated 02.03.2016 in W.P.(MD)No.2214 of
2013.

Prayer in WP(MD). 2214/ 2013 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a WRIT OF
MANDAMUS, directing the Respondents to revise the Petitioner s
appointment as Junior Assistant with effect from his date of
appointment viz. 19-11-2008 and further direct them to provide
subsequent promotions from the cadre of Junior Assistant along with
back wages and other monetary benefits within a time frame as may be
stipulated by this Court.

For Appellants : Mr.J.Pooventhera Rajan

For Respondents : Mr.D.Muruganantham

Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J)

Heard Mr.J.Pooventhera Rajan, learned counsel appearing for
the appellant and Mr.D.Muruganantham, learned Additional Government
Pleader appearing for the respondents.



2.This appeal is directed against the order dated 02.03.2016 in W.P.(MD)No.2214 of 2013. The said writ petition, along with connected matters were dismissed by the impugned order. The appellant sought for a direction to the respondents to revise his appointment as Junior Assistant with effect from the date of appointment viz, 19.11.2008 and direct the respondents to provide him subsequent promotion from the cadre of Junior Assistant along with back wages.

3.The question which fell for consideration before the Writ Court was as to whether the appellant has given an undertaking, while being appointed on compassionate ground as Gang Mazdoor, that he was willing to accept the post and will not demand for being appointed as Junior Assistant. The writ Court, after taking into consideration the letter given by the appellant and his willingness to forgo the chance as Junior Assistant, held that the appellant is estopped from taking a different stand. We are of the prima facie view that such an undertaking, which was obtained prior to the appointment cannot be put against the appellant to deny him further promotional opportunities. Therefore, we directed the learned Additional Government Pleader, to get relevant records.

4.On a perusal of the materials placed before the Court by the learned Additional Government Pleader, we find that the undertaking is in unequivocal and voluntary. By virtue of giving an such undertaking, the appellant was able to secure the appointment on compassionate ground earlier than that the persons who opted to wait for their turn to be considered for appointment as Junior Assistant on compassionate grounds. Thus, the appellant who was fully aware of the consequences of the undertaking given, now cannot wriggle out of the same. The Writ Court was perfectly justified in rejecting the relief sought for. Similar order passed in the case of L.Antony Muthu v. The State of Tamil Nadu, represented by its Secretary to Government and others reported in W.A.(MD)No.913 of 2011 dated 11.04.2011 was taken into consideration. In the written instructions given to the learned Additional Government Pleader, it has been stated that the petitioner would be considered for promotion as when his turn arises under the relevant rules for the post of Road Inspector Grade II.

5.Thus for the above reasons, we find no ground has been made out by the appellant to interfere with the order passed by the learned Single Judge in the writ petition. Thus, the writ appeal fails and stands dismissed. No Costs.

Sd/-

Assistant Registrar(P&A)

/True Copy/



To

1. The Secretary to Government,
Department of High Ways and Minor Ports,
Fort St. George,
Chennai- 600 009.

2. The Director General (Highways),
Department of Highways,
Chepauk,
Chennai.

3. The Divisional Engineer (Highways)
Department of Highways,
Sivagangai.

+1cc to Special Government Pleader, SR.No. 54803

W.A. (MD).No.220 of 2018
12.03.2018

mrn

JM/SKN RSK/SAR 4/09.04.2018/3P/5C