



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:19.02.2018**

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and**

**THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM
W.A. (MD)No.277 of 2018**

and

C.M.P. (MD)No.1664 of 2018

WEB COPY

1. The Secretary to Government,
Public Works (C2) Department,
Chennai.
2. The Chief Engineer,
(Buildings Construction and Maintenance),
Public Works Department,
Chepauk,
Chennai 600 005.
3. The Superintending Engineer,
Public Works Department,
Thanjavur Circle,
Thanjavur.
4. The Executive Engineer,
Public Works Department,
Buildings and Maintenance Division,
Thanjavur.

... Appellants/ Respondents

Vs.

G.Nallusamy

... Respondent/Petitioner

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent, against the order passed by this Court dated 17.02.2016 made in W.P. (MD)No.7555 of 2008.

Prayer in WP(MD). 7555/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent to quash the order passed by him vide letter No. 578/08/N12/dated 23/04/2008 as illegal, discriminatory and against the principles of natural justice and to declare that the petitioner is entitled to be regularized as Inspector (Grade II) from 01/07/1988 with all monetary benefits.



For Appellants : Mr.V.R.Shanmuganathan
Special Government Pleader
For Respondent : Mr.Haja Mohideen

J U D G M E N T

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

Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader for the appellants and Mr.Haja Mohideen, learned counsel for the respondent/writ petitioner.

2. This appeal by the State is directed against the order in W.P.(MD).No.7555 of 2008, dated 17.02.2016 filed by the respondent/writ petitioner challenging the proceedings of the fourth appellant dated 23.04.2008 as being discriminatory and against the principles of natural justice and to declare the respondent / writ petitioner is entitled to be regularised as Inspector (Grade-II) from 01.07.1988 with all monetary benefits. Before the writ Court, the petitioner placed reliance on the case of one similarly placed person by name Thiru Narayanan was considered favourably by the Government and G.O.Ms.No.286, dated 13.12.2005 was passed relaxing the *ad hoc* rules and bringing the person into regular establishment with effect from 01.07.1988 in the category of Work Inspector Grade-II. The respondent/writ petitioner contended that he is also entitled for the identical treatment. However, the same came to be rejected by the proceedings of the fourth appellant dated 23.04.2008, which was impugned in the writ petition.

3. The writ Court, after taking into consideration that the respondent/writ petitioner has also been serving in the same category, the yardstick applied in G.O.(Ms.).No.286, dated 13.12.2005 can also be extended to the respondent / writ petitioner and accordingly, allowed the writ petition and directed the fourth appellant to include the name of the respondent/writ petitioner in the regular list of Work Inspector Grade - II.

4. The learned Special Government Pleader appearing for the appellants pointed out that the case of Narayanan cannot be compared to that of the case of the respondent/writ petitioner, since in his case, he had obtained a direction from the Tamil Nadu Administrative Tribunal in O.A.No.7463 of 1995, wherein, a direction was issued to relax the *ad hoc* rules and grant relief to the said Narayanan and the respondent/writ petitioner cannot compare himself with the said candidate. Further, it is submitted that the said Narayanan had possessed PUC qualification which is higher than the required basic qualification viz., S.S.L.C. and *ad hoc* rules were relaxed and relief was granted to the said Narayanan.



5. We have heard the learned counsel for the respondent / writ petitioner on the above submissions.

6. We find that there is no marked difference between the case of Narayanan and the respondent/writ petitioner. The respondent/writ petitioner had an S.S.L.C. qualification, but did not possess the Bifurcated Engineering Course. Similarly, Narayanan also did not possess the Bifurcated Engineering Course. Therefore, the Government relaxed the adhoc rules not only based on the higher qualification possessed by Narayanan viz., PUC, but also granted relaxation from possessing the Bifurcated Engineering Course. Therefore, we find that the case of the respondent/writ petitioner is identical to that of the case of Thiru Narayanan. Further, we find that the Government took a decision in Narayanan case and there was no positive direction issued by the Tamil Nadu Administrative Tribunal in O.A.No.7463 of 1995, wherein a direction was issued to consider the request of Narayanan for appointment of Work Inspector Grade - II. Therefore, when the Government has taken a decision to grant relaxation of *ad hoc* rules in favour of similarly placed person, if such benefit is not extended to the respondent/writ petitioner, it would amount a clear case of discrimination. Thus, we find that the relief granted in the writ petition is perfectly in order and the same does not call for interference. Accordingly, the writ appeal fails and it is dismissed and there will be a direction to the first appellant to relax the requirements under the relevant *ad hoc* rules and declare that the respondent/writ petitioner is entitled to be regularised as Inspector Grade - II from 01.07.1988 and to extend all monetary benefits accruing thereof.

7. The respondent/writ petitioner is stated to be aged about 70 years as of now. Therefore, the first appellant shall pass appropriate orders within a period of four weeks from the date of receipt of a copy of this judgment and consequential order be passed by the appellants 2 to 4 within a period of three weeks thereafter. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

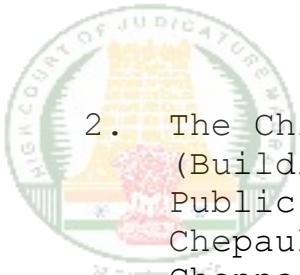
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Public Works (C2) Department,



2. The Chief Engineer,
(Buildings Construction and Maintenance),
Public Works Department,
Chepauk,
Chennai 600 005.

WEB COPY

3. The Superintending Engineer,
Public Works Department,
Thanjavur Circle,
Thanjavur.
4. The Executive Engineer,
Public Works Department,
Buildings and Maintenance Division,
Thanjavur.

+1cc to Mr.A.Haja Mohideen, Advocate Sr.No.49887

AKV

VB/SV/MMS/SAR3/12/03/2018/4P/6C

W.A. (MD) No.277 of 2018
19.02.2018