



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM:

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THE HONOURABLE Mr. JUSTICE S. VAIDYANATHANW.P. (MD) Nos. 17965 & 12590 to 12592 of 2018
and

W.M.P (MD) Nos. 15846, 11473 to 11475 of 2018

W.P. (MD) Nos. 17965 of 2018:

V. Rajaram

... Petitioner

Vs.

1. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Palani Division,
Palani - 624 601

2. The Assistant Engineer,
Highways & Construction & Maintenance,
Odanchatram Section,
Office of Assistant Divisional Engineer Department,
Odanchatram,
Dindigul District. .

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st respondent's impugned proceedings in No. Se. Mu. Ka. No. 390/2018/Aa1, dated 11.06.2018 and quash the same as illegal.

W.P. (MD) Nos. 12590 of 2018:

P. Kannan

... Petitioner

Vs.

1. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Dindigul Division,
Trichy Road,
Pandian Nagar, Dindigul.



2. The Assistant Engineer,
Highways Department,
Natham Section,
Construction and Maintenance,
Dindigul.

3. V.Chandrasekaran

4. R.Raja

... Respondents

*(R3&R4 impleaded vide
order dated 26.09.2018 in WMP(MD)No.14625/2018)

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st respondent's impugned proceedings in No.Se.Mu.Ka.No.10/2016/Aa3, dated 25.05.2018 and quash the same as illegal.

W.P. (MD)Nos.12591 of 2018:

M.Arumugam

... Petitioner

Vs.

1. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Dindigul Division,
Trichy Road,
Pandian Nagar,
Dindigul.

2. The Assistant Engineer,
Highways Department,
Dindigul Section,
Construction and Maintenance,
Dindigul.

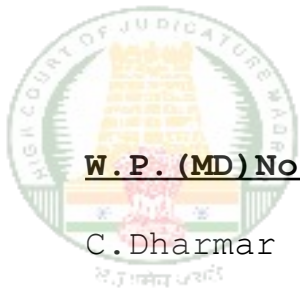
3. V.Chandrasekaran

4. R.Raja

... Respondents

*(R3&R4 impleaded vide
order dated 26.09.2018 in WMP(MD)No.14626/2018)

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st respondent's impugned proceedings in No.Se.Mu.Ka.No.10/2016/Aa3, dated 25.05.2018 and quash the same as illegal.



W.P. (MD) Nos.12592 of 2018:

C.Dharmar

... Petitioner

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Vs.

1. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Dindigul Division,
Trichy Road,
Pandian Nagar,
Dindigul.
2. The Assistant Engineer,
Highways Department,
Natham Section,
Construction and Maintenance,
Dindigul.
3. V.Chandrasekaran
4. R.Raja

... Respondents

*(R3&R4 impleaded vide
order dated 26.09.2018 in WMP(MD)No.12073/2018)

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st respondent's impugned proceedings in No.Se.Mu.Ka.No.10/2016/Aa3, dated 25.05.2018 and quash the same as illegal.

For Petitioners : Mr.M.Purushothaman
(in all Wps.)

For Respondents : Mr.K.Mu.Muthu
(R1&R2 in all Wps.) Addl.Govt.Pleader

For Respondents : Mr.R.Saravanan
(R3 & R4 in WP(MD)Nos.12590 to 12592/2018)

COMMON ORDER

The Writ Petitions have been filed praying to call for records of the 1st respondent's impugned proceedings in No.Se.Mu.Ka.No.390/2018/Aa1, dated 11.06.2018 and No.Se.Mu.Ka.No.10/2016/Aa3, dated 25.05.2018 respectively, and quash the same as illegal.



2. The sum and substance of the issue on hand is that the petitioners have obtained foundation course and that they have not undergone regular stream of studies. Therefore, they are not entitled to hold the present post and they have been reverted.

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3. The learned counsel for the petitioners would contend that the Rule was in existence, when the petitioners have been promoted and that the respondents have given a go by to Rule 58 and promoted them and they have been serving for years and suddenly the impugned order in question have been passed, reverting the petitioners.

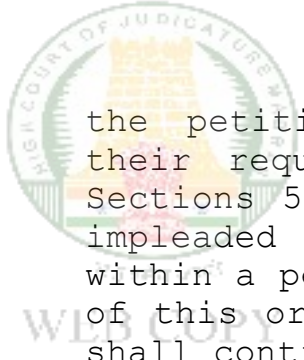
4. It is the contentions of the respondents that the petitioners have not done the course in regular stream and therefore, they are not entitled to hold the present posts and therefore, they have been reverted. The sum and substance of the impleaded respondents and the Government is that unless or otherwise the candidates possess sufficient qualifications to be included in the Combined Subordinate Services and that the Apex Court in the decision in **G.S.Lamba and Others Vs. Union of India and Others** reported in **(1983 (2) SCC 604)** has held that there should be a regular stream of study for the purpose of grant of promotion and accommodating the candidates. Unless the degree is awarded in a regular stream study and the pre-foundation course, which is stated as 10th equivalent, cannot at any stretch of imagination be taken as regular stream and that the petitioners cannot be entitled to any relief. The Government has also issued a clarification and contended that the petitioners are not entitled to the relief.

5. The petitioners in reply reiterated and drew the attention of this Court to Rule No.58 and submitted that the impleaded respondents can be considered provided the issue raised by the petitioners are not decided or any adverse decision is rendered within a period of one year.

6. I have heard the learned counsel appearing on either side and perused the materials available on record.

7. It is not in dispute that the petitioners have done pre-foundation course, which according to them has got to be treated as equivalent to 10th Standard and that a reading of Rule 53 would make it very clear that there shall be a waiting period of one year and that the petitioners have also made a representation seeking for the grant of relaxation in terms of Rule 58 and also for consideration for their request.

<https://hcservices.courts.gov.in/hcservices/>
8. Though this Court is not inclined to grant the relief sought for by the petitioners as such, considering the fact that



the petitioners have submitted representations for considering their request as per Rule 58, this Court, by taking note of Sections 53 and 58 and after hearing the petitioners as well as impleaded respondents, directs the Government to take a decision within a period of three months from the date of receipt of a copy of this order and till such time, the present status, as on date shall continue.

9. With the above direction, these Writ Petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

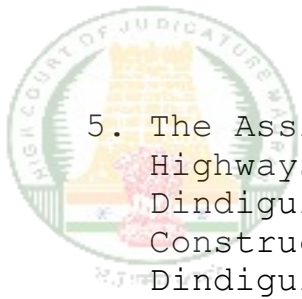
Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Palani Division,
Palani - 624 601
2. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Dindigul Division,
Trichy Road, Pandian Nagar,
Dindigul.
3. The Assistant Engineer,
Highways & Construction & Maintenance,
Odanchatram Section,
Office of Assistant Divisional Engineer Department,
Odanchatram,
Dindigul District.
4. The Assistant Engineer,
Highways Department,
Natham Section,
Construction and Maintenance,
Dindigul.



5. The Assistant Engineer,
Highways Department,
Dindigul Section,
Construction and Maintenance,
Dindigul.

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+ 1 CC TO Mr.M.KANNAN, ADVOCATE IN SR No. 87585
+ 1 CC TO Mr.R.SARAVANAN, ADVOCATE IN SR No. 87111

MPK

TE/RP/SAR-2 : 14/11/2018 : 6P/8C

W.P. (MD) Nos.17965 &
12590 to 12592 of 2018
26.09.2018