

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.2.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.Nos.810 to 815 of 2013

WA.No.810 of 2013

S.Tamilarasan ...Appellant/Petitioner in W.A.No.810/2013
R.Subramaniyan ...Appellant/Petitioner in W.A.No.811/2013
P.Sekar ...Appellant/Petitioner in W.A.No.812/2013
Thangarajan ...Appellant/Petitioner in W.A.No.813/2013
Selvam ...Appellant/Petitioner in W.A.No.814/2013
M.Manickkam ...Appellant/Petitioner in W.A.No.815/2013

versus

1.The Director General (Highways)
Chepauk, Chennai 5.

2.The Chief Engineer (General),
Highways Department,
Chepauk, Chennai 5.

3.The Superintending Engineer,
Highways (Construction and Maintenance)
Villupuram

4.The Divisional Engineer,
Highways (Construction and Maintenance)
Kallakurichi
Villupuram

... Respondents

Appeal filed against the order passed by this Court dated 1.2.2013 passed in W.P.No.4842 of 2012, 4843/2012, 4844/2012, 4845/2012, 4846/2012 and 4847/2012.

Prayer in W.P.Nos.4842 to 4847 of 2012: Writ of Mandamus to direct the respondents to promote the petitioner as Grade-I Road Inspector from 08.03.1995 (WP.No.4842/2012), 02.01.1999 (WP.No.4843/2012), 17.10.2000 (WP.No.4844/2012), 17.08.1998 (WP.No.4845/2012), 26.12.2000 (WP.No.4846/2012), 03.02.1999 (WP.No.4847/2012) and provide all monetary, other benefits and all arrears within a stipulated time.

For appellant : Ms.L.Chandrakumar

For Respondents : Mrs.A.Sri Jayanthi, Spl.G.P.

COMMON JUDGMENT

(made by K.K.SASIDHARAN, J.)

The challenge in these intra Court appeals is to the common order dated 1 February 2013 in W.P.Nos.4842 to 4847 of 2012, dismissing the Writ Petitions filed by the appellants for a direction to the respondents to promote them as Grade I Road Inspector and grant monetary and all other benefits.

2. The appellants were working as Road Inspector Grade II in Kallakurichi Division. The appellants claimed that they are entitled to be promoted to the post of Road Inspector Grade I from the date on which they have completed five years of service in the post of Road Inspector Grade II. The claim was not considered, resulting in filing the Writ Petitions.

3. The learned Single Judge was of the view that promotion is only by way of assessing the merit and ability and as such, there is no question of automatic promotion from the post of Road Inspector Grade II to the post of Road Inspector Grade I. Feeling aggrieved, the appellants have come up with these intra court appeals.

4. The learned counsel for the appellants contended that under similar circumstances, the Highways Department promoted other officers and the appellants alone were discriminated. The learned counsel further contended that the assessment of merit and ability were not the criteria for giving promotion and as such, the learned single Judge was not correct in dismissing the Writ Petitions.

5. We have also heard the learned Special Government Pleader on behalf of the respondents.

6. The core question is as to whether the appellants are eligible for promotion to the post of Road Inspector Grade I as a matter of course without there being an assessment of their inter-se merit and ability.

7. The Road Inspector Grade I is the post in question. The Tamil Nadu Highways Engineering Subordinate (Work Charged) Service Rules provides that appointment to the post of Road Inspector Grade I is by promotion from among the holders of the post of Road Inspector Grade II, who have put in not less than five years of practice. The Rule further provides that promotion

shall be made on the ground of merit and ability, seniority being considered where merit and ability are approximately equal. Therefore, it is very clear that the post of Road Inspector Grade I is a selection post. The appointing authority is obliged to consider the relevant merits and ability of the Road Inspector Grade II for promotion to the post of Road Inspector Grade I.

8. The appellants have taken up a contention that it was not the practice of the Highways Department to assess the relative merits and ability and promotion used to be made immediately after completing five years of continuous service. We are not in a position to agree with the said contention in view of the rule position.

9. The rule is very clear that promotion would be made on the grounds of merit and ability alone and seniority would be relevant only in case the merit and ability are approximately equal. The fact that the Highways Department earlier promoted some of the Road Inspector Grade I without assessing the relative merit and ability cannot be a reason to direct the Department to violate the special rules. We are therefore of the view that there is absolutely no merit in the contention taken by the appellants.

10. The learned Single Judge has considered the Special Rules and rightly dismissed the Writ Petitions.

11. In the upshot, we dismiss the intra court appeals. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

1.The Director General (Highways)
Chepauk, Chennai 5.

2.The Chief Engineer (General),
Highways Department,
Chepauk, Chennai 5.

3.The Superintending Engineer,
Highways (Construction and Maintenance)
Villupuram

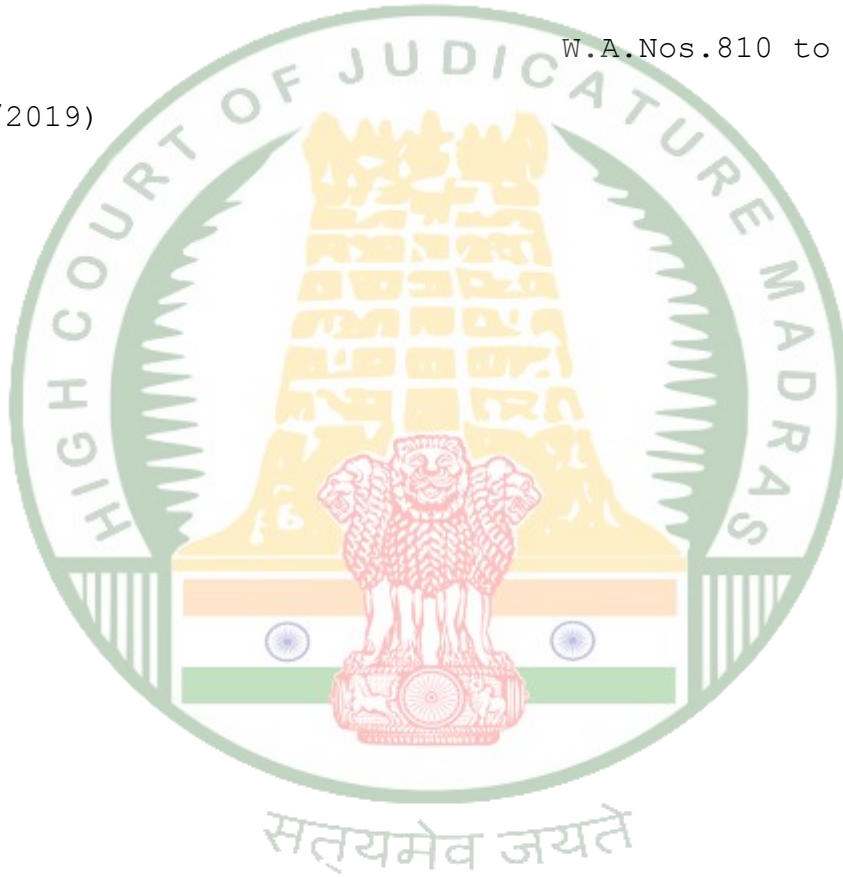
4.The Divisional Engineer,
Highways (Construction and Maintenance)
Kallakurichi
Villupuram

+6 ccs to Mr.L.Chandrakumar, Advocate, S.R.No.12550

+1 cc to the Government Pleader, S.R.No.12882

W.A.Nos.810 to 815 of 2013

CA(CO)
SSM(11/03/2019)



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