

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2019

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.3288 OF 2015

AND

WMP.NO.1& 2 OF 2015

T.Sekar

..Petitioner

Vs

1. The Divisional Engineer (Highways)
(Construction and Maintenance)
Tiruvavarur, Tiruvavarur District
 2. The Assistant Divisional Engineer (Highways)
(Construction and Maintenance)
Kodavasal, Tiruvavarur District
- .. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned memo issued by the second respondent in Ku.No.79/2014/A1 dated 03.12.2014 and quash the same and direct the respondents to promote the petitioner to the post of Road Inspector Grade-I with effect from 11.09.2014, the date on which his juniors were promoted with all consequential benefits.

For Petitioner : M/s.P.Rajendran

For Respondents : Mr.J.Ramesh, AGP

O R D E R

The prayer sought for in the Writ Petition is to call for the records relating to the impugned memo issued by the second respondent in Ku.No.79/2014/A1 dated 03.12.2014 and quash the same and direct the respondents to promote the petitioner to the post of Road Inspector Grade-I with effect from 11.09.2014, the date on which his juniors were promoted with all consequential benefits.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the writ petitioner was appointed as Salai Paniyalar (Road Worker) on 12.11.1997 and subsequently his services was regularised and promoted to the post of Road Inspector Grade-II on 10.10.2008. The qualification prescribed for appointment to the post of Salai Paniyalar is a pass in V Standard. Therefore, he produced a school certificate to show that he had pass V standard, even though he had passed SSLC examination, since the same was not required. At the time of promotions to the next level, he produced his X standard certificate, for which, a show cause notice was issued to him by the 2nd respondent under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, by stating reason that he has furnished wrong information at the time of appointment. He has submitted his explanation dated 12.12.2014. Since the said disciplinary proceedings are pending, he was denied promotion till date and his juniors were promoted as Road Inspector Grade-I. It is further submitted that as per G.O. Ms.NO. 371 dated 19.08.1997, the candidate must have passed V Standard and there is no prohibition that the candidates who have passed X Standard are disqualified from applying for the post.

4. It is further submitted by the learned counsel for the petitioner that the case of similarly placed persons in WP(MD) No. 2161 of 2009 was considered by this Court and dropped the disciplinary proceedings initiated against the concerned employees and they were promoted as Road Inspector Grade-II. This Order was followed by this Court in the subsequent decision taken on the similar issue in W.P. (MD) No. 4228 of 2012. Citing the above decisions rendered by this Court, the learned counsel for the petitioner submitted that the case of the writ petitioner has also to be considered since the charge is similar and identical in all aspects as that of the petitioners in the above cases.

5. On the other hand, the learned Additional Government Pleader submitted that the show cause notice was issued to the writ petitioner on the ground that he had furnished wrong information at the time of appointment. The writ petitioner has also submitted his explanation to the respondents and the same shall be considered by the respondents in accordance with law.

6. Considering the facts and circumstances of the case and in view of the orders passed by this Court, this Court is of the view that it would be appropriate to direct the respondents to consider the writ petitioner's explanation and pass orders.

7. Accordingly, the 1st respondent is directed to consider the writ petitioner's explanation dated 22.12.2014 by taking note of the orders passed by this Court in W.P. (MD).No. 2161 of 2009 and W.P.(MD).No.4228 of 2012 and pass appropriate orders as expeditiously as possible, preferably within a period of twelve (12) weeks from the date of receipt of a copy of this Order.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Divisional Engineer (Highways)
(Construction and Maintenance)
Tiruvavur, Tiruvavur District.
2. The Assistant Divisional Engineer (Highways)
(Construction and Maintenance)
Kodavasal, Tiruvavur District.

+lcc to the Government Pleader, S.R.No.105276

W.P.No.3288 of 2015
and
WMP.No.1& 2 of 2015

PA (CO)
CS/20/02/2020

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