



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) No.372 of 2011

and

M.P. (MD) No.1 of 2012

and

W.P. (MD) No. 2703 of 2011

W.P. (MD) No.372 of 2011

1.M.Palanisamy,

2.C.Rajeswari,

3.F.Nirmala,

4.Russel,

5.K.S.Sree Kumar,

... Petitioners

Vs

1.The Secretary to Government,
Highways Department,
Secretariat, Chennai-009.

2.The Chief Engineer,
Highways,
Chepauk,
Chennai-600 005.

3.The District Collector,
Kanyakumari District,
Nagercoil.

4.The Divisional Engineer,
(Highways) Public Works Department Office,
Veppamoodu,
Nagercoil,
Kanyakumari District.

5.The District Employment Officer,
Kanyakumari District,
Nagercoil.

6. S.Uma Maheswari,



8. G.S.Vinlet Vasanthi,

9. J.Sobha,

10. R.S.Bindu,

11. T.Jeyachandran,

12. S.Sasikala,

13. L. Jeyakumari,

14. G. Mary Lema Rose,

15. M.Murugesan,

16. V.Murugan,

17. Y.Mariya Jerin,

18. S.Ragukumar,

19. V.P.Rameswari,

20. M.Rama,

21. H.Madhan,

22. N.Elbinraj,

23. K.B.Karmukil,

24. C.Sheeba,

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned selection list issued by the 4th respondent in Ku.NO.6186/2010/Aa4 dated 01/02/2010 through Right to Information Act and quash the same as illegal and consequently direct the respondents to appoint the petitioners as Road Inspector Grade - II on the basis of employment seniority.

W.P.(MD)No. 2703 of 2011

T. Reghukumar,

... Petitioner

- Vs. -

1.The Secretary to Government,

Highways Department,

Secretariat, Chennai-600 009.



2.The Chief Engineer,
Highways, Chepauk,
Chennai-600 005.

3.The District Collector,
Kanyakumari District,
Nagercoil.

4.The Divisional Engineer,
(Highways) P.W.D. Compound,
Veppamoodu,
Nagercoil,
Kanyakumari District.

5.The District Employment Officer,
Kanyakumari District,
Nagercoil.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned selection list passed by the 4th Respondent in Ku.No.6186/2009/Aa4 dated 01-02-2010 and quash the same as illegal and consequently direct the Respondents to appoint the Petitioner for the post of Road Inspector Grade-II on the basis of employment seniority.

(In both W.Ps)

For Petitioner : Mr.T.Selvakumaran
in WP (MD) No.372/2011

For R1 to R5 : Mrs.S.Srimathy
Special Government Pleader

For Petitioner : Mr.N.Mohamed Asif
in WP (MD) No.2703/2011

COMMON ORDER

The reply given to the writ petitioners under the Right to Information Act in proceedings dated 01.02.2010 is under challenge in the present writ petition.

2.The learned counsel appearing for the writ petitioners made a submission that the selection and appointment to the post of Road Inspector Grade No.II. Admittedly, the names of all the writ petitioners were sponsored by the District Employment Officer concerned to participate in the process of interview and selection. The writ petitioners also had participated in the process of interview. However, they were not selected. Thus, the writ petitioners are constrained to move the present writ petition.



3.The learned counsel for the writ petitioners state that there were certain irregularities in the process of selection and the writ petitioners were not selected and other candidates were appointed on extraneous consideration. They have mainly contended that the employment seniority was not followed for the purpose of appointing the candidate for the post of Road Inspector Grade - II. It is further contended that the oral interview was improperly conducted and the persons were not selected in accordance with law.

4.Though, certain allegations were made, the same was not substantiated. The process of selection and appointment can be interfered if there is any malpractice, illegality, irregularity or corrupt activities. Even in all such cases, the person must establish the same with sufficient proof or evidence. In the absence of any such evidence, the Court cannot interfere with the appointment. The assessments which are made by the competent interview committee, cannot be interfered in a routine manner. The selection committee is the authority and certain decisions taken by the selection committee in respect of comparative merits cannot be questioned in a routine manner. Only in the event of any inconsistency, the Court can interfere and not otherwise.

5.Though, the writ petitioners have raised certain allegations, the same are not substantiated, so as to interfere with the process of selection. The contentions of the writ petitioners that the appointment are to be made strictly in accordance with the employment seniority is incorrect. The employment seniority is to be strictly followed only for sponsoring the name of candidates in accordance to the rules. Therefore, mere registering as well as sponsoring the name of the candidates would not confer any right for selection or appointment. A registration will confer the name should be sponsored only for attending the interview and not for selection and appointment. The selection and appointment is to be made in accordance with the procedures contemplated and as per the recruitment rules in force. The contention of the writ petitioner is that appointment itself to be made as per the employment seniority is incorrect and not in accordance with law.

6.The learned Additional Government Pleader made a submission that the selection committee conducted an interview and based on the merit assessment, the candidates were appointed to the post of Road Inspector Grade-II. The counter filed by the fourth respondent state as follows:

"Para:7 - It is submitted that while sending the list of candidates for the selection of Road Inspector Grade II in the Services, Government Officer No.x2/107/2009 dated 22.10.2009 in para 11 of the said letter it has been clearly stated that "The authority making the selection for appointment should consider the



merit of all the candidates sponsored by this office and the selection shall be made based on merit and not based on seniority of registration in the Employment only".

It is submitted that, there is no instruction issued either by the Government or by the Department to appoint the Road Inspectors by direct Recruitment based on the seniority list sponsored by the Employment Office. Accordingly, candidates were selected by assessing their merit and rule of reservation from the list of candidates sponsored by the District Employment Officer.

Para: 8- The selection was not based on the seniority alone. The Employment Exchange will sponsor list containing number of persons who are eligible for the appointment in various categories. The appointment will be made only on merits. The appointment will not be made only based on the seniority alone."

7. In view of the fact that the selection was conducted during the year 2010-2011 and the persons were appointed and serving in the department for the post more than 8½ years, this Court is not inclined to consider the relief as such sought for in the present writ petition.

8. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Secretary to Government,
Highways Department,
Secretariat, Chennai-009.

2. The Chief Engineer,
Highways,
Chepauk,
Chennai-600 005.

3. The District Collector,
Kanyakumari District,



4.The Divisional Engineer,
(Highways) Public Works Department Office,
Veppamoodu,
Nagercoil,
Kanyakumari District.

5.The District Employment Officer,
Kanyakumari District,
Nagercoil.

+1cc to Mr.T.Selvakumaran, Advocate in SR.69299

+1cc to the Special Government Pleader in SR.69426

W.P. (MD) No.372 of 2011

and

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17.06.2019

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