

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.10126 of 2013

1. N.Duraisamy
2. P.Raja
3. A.Sundaram

... Petitioners

-vs -

1. State of Tamil Nadu,
Rep. By its Secretary to Government,
Highways Department,
Fort St. George,
Chennai - 600 009.

2. The Chief Engineer (General),
Highways and Rural Works,
Chepauk,
Chennai - 600 005.

3. The Divisional Engineer (Highways),
Highways Department,
Erode - 2.

..... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to appoint the petitioners herein in the existing or future vacancies as Gang Mazdoors in regular time scale of pay in light of the orders passed by this Hon'ble Court in W.P. No.36623 of 2004 which was upheld by the Division Bench of this Hon'ble Court in W.A. No.1260 of 2008 and confirmed by the Hon'ble Supreme Court in C.C. No.14093 of 2010.

For Petitioners : Mr.G.Punniyakoti

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

ORDER

(This case has been heard through video conference)

This writ petition has been filed seeking a direction to the respondents to appoint the petitioners in the existing or future vacancies as Gang Mazdoors in regular time scale of pay, in light of the orders passed by this Court in W.P. No.36623 of 2004, which was upheld by the Division Bench in W.A. No.1260 of 2008 and confirmed by the Hon'ble Supreme Court in C.C. No.14093 of 2010.

2.The case of the petitioners is that they have been working as NMRs from the year 1981 onwards and have put in service ranging from three to ten years. While so, the Government passed G.O.Ms.No.371 Highways (NM2) Department, dated 19.08.1997, thereby creating 10,000 posts of Gang Mazdoors in regular time scale of pay. Similarly, G.O.Ms.No.184, Highways Department, dated 29.05.1997 came to be passed, creating 764 posts to absorb the existing NMRs. Though the petitioners have possessed the requisite qualification for appointment to the post of Gang Mazdoors and they have also put in service of 480 days within a continuous period of 24 calendar months, as per the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, they have not been considered for the said post.

3.It is the further case of the petitioners that some of the affected NMRs, who were working in Chengalpet Highways Division, filed WP.No.36623 of 2004, seeking a direction to the respondents therein to absorb them as NMRs and regularise their services. By order dated 09.12.2005, the said writ petition was disposed of, directing the respondents therein to absorb those NMRs, who had completed three years of service and regularise their services. Challenging the said order, the respondents therein preferred WA.No.1260 of 2008, which was dismissed. Thereafter, they went on appeal before the Supreme Court in CC.No.14093 of 2010, which was also dismissed. Thereafter, the said order was implemented by the second respondent. Following the said orders, the petitioners herein submitted a separate representation dated 10.04.2012 to the first respondent. However, the said representations have not been considered. Therefore, the petitioners have filed the present writ petition for the aforesaid relief.

4.The learned counsel appearing for the petitioners submitted that since the petitioners herein are the similarly placed persons, they are also entitled to the same benefit as have been granted to the petitioners in WP.No.36623 of 2004.

However, the representations submitted by the petitioners seeking the very same relief have not been considered till date.

5.The learned Special Government Pleader appearing for the respondents fairly submitted that the respondents would consider the representation of the petitioners and pass appropriate orders, on merits, within a time frame to be stipulated by this Court. However, he submitted that the petitioners may be directed to send a copy of the representation to the respondent.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court, without going into the merits of the case, directs the petitioners to submit a copy of the representation dated 10.04.2012 enclosing a copy of the order passed by this Court in the similar case, to the respondents within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representation, the respondents are directed to consider the same and pass orders, on merits and in accordance with law and also in the light of the order passed by this Court in respect of similarly placed individuals, as expeditiously as possible.

This writ petition is disposed of with the aforesaid directions. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

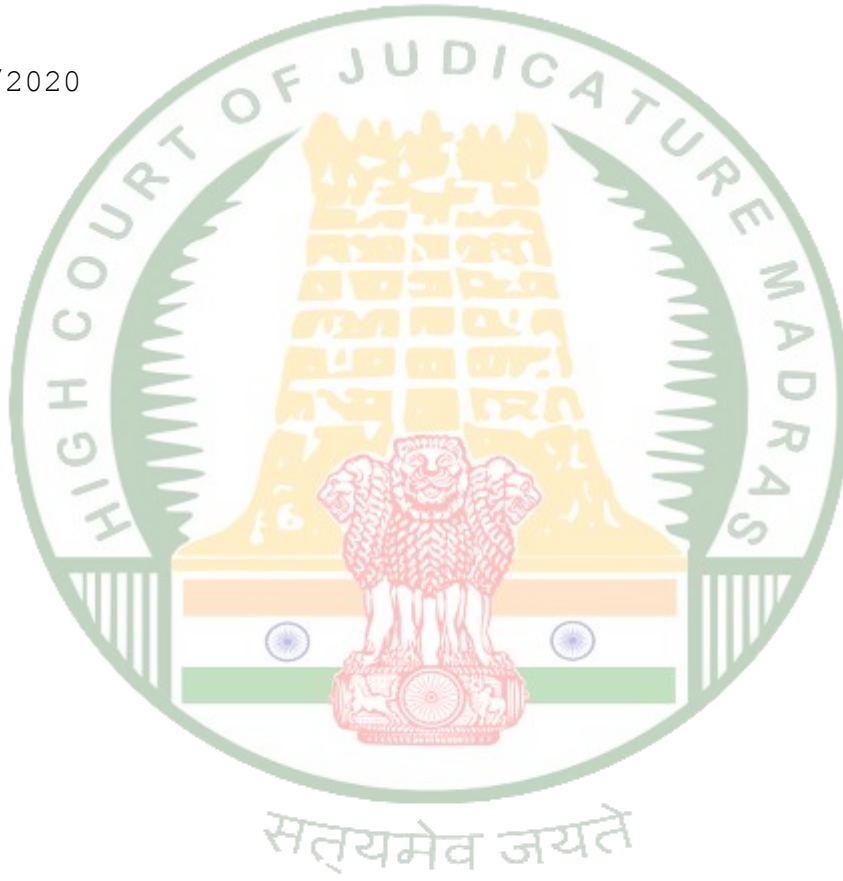
1. The Secretary to Government,
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2. The Chief Engineer (General),
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3. The Divisional Engineer (Highways),
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+1cc to the Government Pleader Sr.36753

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