

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.01.2020

DELIVERED ON : 11.03.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.12009 to 12020 of 2018 and 33180 of 2018
WMP.Nos.13994 to 14005 of 2018 and 38506 of 2018

W.P.No.12009 of 2018:

T.Malarvizhi

.. Petitioner

-VS-

1.The State of Tamil Nadu,
rep. by its Additional Chief Secretary/Secretary,
Highways and Minor Ports Department,
Fort St. George,
Chennai-600 009.

2.Association of Tamil Nadu Highways Engineers,
rep. by its General Secretary,
35, Taluk Office Road,
Saidapet, Chennai – 15.

3.V.K.C.Anand

4.Bharathi Rathinakumar

.. Respondents

(2nd respondent impleaded as per order
in W.M.P.Nos.30560, 30574, 30576, 30577,
30578, 30932, 30949, 30950, 30951, 30952,
30953, 23490 of 2018, dated 23.01.2019)

(Respondent Nos.3 and 4 impleaded as per order
in W.M.P.No.5410 of 2019 dated 19.02.2019)

and batch cases

For Petitioners : Mr.R.Singaravelan
Senior Counsel
for M/s.Jeevagiridharan
(W.P.Nos.12009 to 12020 of
2018)

Mr.S.Karthikei Balan
(W.P.No.33180 of 2018)

For Respondents : Mr.R.Udayakumar
Addl. Government Pleader
for respondent No.1

Mr.K.Venkataramani
Senior Counsel
for M/s.M.Muthappan
for respondent Nos.3 and 4
in W.P.Nos.12009 to 12020
of 2018 and
Respondent Nos.2 and 3 in
W.P.No.33180 of 2018

Mr.N.Subramanian
for respondent No.2 in
W.P.Nos.12009 to 12020 of
2018 and
respondent No.4 in
W.P.No.33180 of 2018

COMMON ORDER

SUBRAMONIUM PRASAD, J.

This batch of writ petitions challenges Rule 10(b)(b) of Special Rules for the Tamil Nadu Highways Engineering Service as amended by G.O.Ms.No.49, Highways and Minor Ports (HK1), dated 02.4.2018 and punished in the Tamil Nadu Government Gazette dated 04.04.2018.

2. The petitioners are working as Junior Engineers, Overseers and Senior Draughtsmen belonging to the Tamil Nadu Highways Engineering Service. The Engineering Service in the Highways Department consisting of Tamil Nadu Highways Engineering Service and Tamil Nadu Engineering Subordinate Service having different hierarchy. The senior most of the Tamil Nadu Highways Engineering

Service is Junior Engineer, who is a Diploma Holder. The junior most of Tamil Nadu Highways Engineering Service is an Assistant Engineer who is a degree holder. The post of Assistant Engineer is filled by direct recruitment by a competent examination.

3. As per Section 17 of the Tamil Nadu Highways Engineering Service, the appointment to the post of Assistant Engineer is as under:

Category	Method of recruitment	Qualification
Assistant Engineer	(a) Direct recruitment	(1) Must have not completed or will not complete the age of thirty years on the first day of July of the year in which the selection for appointment is made. (2) Must possess a degree in Civil or Mechanical Engineering or a pass in Sections A and B of the A.M.I.E. (India). Examinations (re-named as Institution of Examinations) Provided that other

Category	Method of recruitment	Qualification
		things being equal, preference shall be given to a person who has undergone one year of Apprenticeship training under the Government of India Scheme or one year of training under the State Government Apprenticeship Scheme.
	(b) Recruitment by transfer	(1) Must possess a degree in Highways Civil or Mechanical Engineering or a pass in Sections A and B of the A.M.I.E. (India) Examinations (re-named as Institution of Examination); (2) Must have put in service for a period of not less than three years in the category of Head Draughting Officer or Senior Draughting Officer in the case of appointment from such categories;

Category	Method of recruitment	Qualification
		Provided that such number of vacancies as may be determined by the Chief Engineer, Highways and Rural Works Department from time to time, shall be filled by persons with Mechanical or Automobile Engineering qualifications.

For the post of Assistant Divisional Engineer, the qualification is prescribed as under:

Category	Method of recruitment	Qualification
Assistant Divisional Engineer	(a) Promotion	1.Must possess a degree in Highways Civil or Mechanical Engineering or a pass in Sections A and B of the A.M.I.E. (India) of Examinations;

Category	Method of recruitment	Qualification
		and 2.Must have put in service for a period of not less than five years as Assistant Engineer.
	(b)Recruitment by transfer from among Junior Engineers in the Tamil Nadu Highways Engineering Subordinate Service or from Junior Engineers of the Public Works Department in the Tamil Nadu Engineering Subordinate Service	1.(a) Must possess a Diploma in Highways, Civil or Mechanical Engineering of the College of Engineer, Guindy, and (b) Service as Junior Engineer for a period of not less than five years; or 2.(a) Must possess Upper Subordinate or Licentiate in Civil

Category	Method of recruitment	Qualification
		Engineering Diploma of the College of Engineering, Guindy or the Licentiate of Civil Engineering, or Licentiate of Mechanical Engineering of the Technological Diploma Board, Chennai or any diploma in Engineering; and (b) Service as Junior Engineer or Daughtsman for a period of not less than ten years. 3.(a) Must possess Lower Subordinate Diploma of the College of Engineering, Guindy or any Diploma in Engineering; and (b) Service as Overseer, Junior

Category	Method of recruitment	Qualification
		Engineer or Draughtsman for a period of not less than eighteen years. Provided that Licentiate in Mechanical Engineering and Licentiate in Automobile Engineering diploma holders shall, on appointment as Assistant Divisional Engineers be, as far as possible, posted in the vacancies that arise in workshops under the control of the Highways Department. Explanation. - For the purpose of this rule, the service rendered as District Board Overseer or Assistant Engineer or

Category	Method of recruitment	Qualification
		Junior Engineer in any Public Works Department Roads Circle shall be treated as service; or 4. Must possess a degree in Engineering or its equivalent after appointed and on completion of either ten years of total service from the date of taking his degree whichever is earlier, subject to the condition that no person who has a total service of less than five years shall be eligible for appointment as Assistant Divisional Engineer.

4. It is pertinent to mention here that in the post of Assistant Divisional Engineer, the first three posts are to be filled up by promotion from among the permanent Assistant Engineers possessing the qualification as mentioned in the Table above and the fourth vacancy is to be filled by recruitment by transfer from among the permanent Junior Engineers of the Tamil Nadu Highways Engineering Subordinate Service or permanent Draughting Officers, who were working in the Drawing Office for administrative reason possessing the Upper Subordinate or Licentiate in Civil Engineering, Diploma of the College Engineering, Guindy or Licentiate in Civil Engineering, Diploma of the Technological Diploma Board, Chennai, or a diploma in Engineering of any University or Institution recognized by the University Grants Commission for the purpose of its grant.

5. The qualification was challenged in a batch of writ petitions filed by the Assistant Engineers praying as under:

"Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of (1) Declaration to declare the appointments of respondents 3 to 23 as Assistant Divisional Engineers as illegal, void and unconstitutional and consequently

to direct the respondents 1 and 2 to revert the respondents 3 to 23 to the post of Junior Engineers and further direct the respondents 1 and 2 to give retrospective notional promotion to the petitioners as Assistant Divisional Engineers without following 3 : 1 ratio between Assistant Engineers and Junior Engineers, if Junior Engineers who rendered 10 years service after becoming Junior Engineer are not available, from the date on which the Junior Engineers who are junior to petitioners were appointed as Assistant Divisional Engineer as aforesaid (W.P.Nos.8870 of 2008 and 9093 of 2008)

(2) Mandamus, directing the respondents not to promote the Junior Engineers with less than 10 years of Service in the category of Junior Engineers in Violation to the rules and consequently direct the respondents to promote the Qualified Assistant Engineers as per rules in the existing vacancies of Assistant Divisional Engineers. (W.P.No.27694 of 2008)

(3) Mandamus, forbearing the respondents from promoting the Junior Engineers with less than 10 years of service in the category of Junior Engineers to Assistant Divisional Engineer in violation to the

rules and till the disposal of similar W.P.Nos.8870/08, 9093/08 and 27694/2008. (W.P.No.9260 of 2009)

(4) Mandamus, forbearing the respondents from promoting Junior Engineers who have less than 10 years of Service in the category of Junior Engineers as Assistant Divisional Engineers till the final disposal of the w.P.Nos.8870, 9093 and 27694 of 2008 (W.P.Nos.9838 & 9839/09, 9857 to 9861 of 2009 and 10577 of 2009)

(5) Mandamus, forbearing the respondents from appointing any Junior Engineer as Assistant Divisional Engineer in Highways Department by recruitment by transfer before rendering a minimum of 10 years of service after becoming Junior Engineer as mandated under the Special rules to Tamil Nadu Highways Engineers Service till the final disposal of W.P.Nos.8870, 9093 and 27964 of 2008 by this Hon'ble Court (W.P.Nos.9842 of 2009, 10183 of 2009 & 10486 of 2009)."

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6. The contentions of the Assistant Engineers were summarised as under:

"(1) The respondents' 3 to 28 are not qualified as they are not having 10 years experience as JE and as such they are not eligible for promotion as ADE;

(2) From the reading of the Rule 9(a), it is clear that the reservation of quota of 3:1 ratio between AEs and JEs is applicable only in the event of qualified and suitable candidates are available and if qualified and suitable candidates are not available in either of the categories of AEs and JEs, it goes to the other, i.e., if AEs are not available, three posts can be filled up from among the eligible JEs and vice-versa. The said rule is not absolute in its terms, but it is conditional upon qualified and suitable candidates are being available.'

(3) Rule 10 makes it very clear that the persons who do not possess the-qualification prescribed therein are not eligible for appointment to the category under the methods of recruitment stated therein,

(4) If the promotions are made to the post of ADE by appointing unqualified persons, Rule 9(b) would become redundant. Rule 9(a) if harmoniously read with Rule 10(b)(2)(a) and (b) would show that the fourth vacancy out of every four vacancies in the category of ADE shall be filled either by a JE or by a permanent Draughtsman, who has been appointed as JE but working in the drawing office for administrative reasons and who has rendered service as JE or as draughtsman after becoming JE. The draughtsman referred to shall be the draughtsman who after appointment as JE continues to work as draughtsman for administrative reasons and he should have rendered ten years either as Junior Engineer or Draughtsman after becoming Junior Engineer.

(5) The Government can, under Rules 9(b) and 10(b)(3)(a) and (b) of the Rules notwithstanding anything contained in these rules, i.e., de hors, the said 3:1 ratio, appoint JEs with lower subordinate diploma with total service of 18 years as Junior Engineer, Overseer or Draughtsman with proven efficiency. This rule is not applicable to the present case as the said respondents' have not been appointed as ADE under this rule as the first respondent replied to the query put under the Right

to Information Act, 2005 that the respondents' 3 to 23 have not been appointed under Rule 10(b)(2)(a) and (b) of the rules.

(6) The petitioners who are the degree holders and working as AEs after completing. 9 years of service are stagnating, whereas the respondents' 3 to 23, who are not having 10 years of service as JEs, are promoted/included in the panel for promotion as ADEs;

(7) The respondent No. 23, who has been promoted as JE on 18-4-1999 is due for promotion on 18-4-2009, i.e., after completing 10 years of service as JE, whereas, he was promoted as ADE on 30-5-2007 itself. Likewise, one P. Subrarnanian (respondent No. 24), who was promoted as Junior Engineer on 11-9-2004 will be finishing 10 years of service as JE only on 11-9-2014, but his name is under consideration for promotion as ADE in the year 2009 itself. On the other hand, the petitioners', who are the degree-holders and serving as AEs since 1998, 1999 and 2000 and who are eligible for promotion as ADE after completing five years of service are not included in the list for promotion as ADE. Therefore, the question is whether 10 years of service as JE is sufficient or

not or ten years of service as JEI includes draughtsman also and if such contention is accepted, then Rule 9(b) of the rules becomes redundant.

7. The Government supported the Rule contending that the Junior Engineers, who have been given promotion as Assistant Divisional Engineers, had joined in the service between 1979-1983 and the junior most officer, who was given promotion as Assistant Divisional Engineer, had joined in the service on 29.08.1983 and for getting promotion each of them have put up more than 25 years of service, whereas, the petitioners (Assistant Engineers) have joined in the service between 1997 and 1998 and from such position, it is clear that all the promotees have put up more than 25 years of service and therefore, there is no doubt that they have completed 18 years of total service, which is the crucial qualification and such factual position cannot be disputed.

8. It was further contended that Rule 9(b) reads "*a Junior Engineer who has rendered a total service of not less than eighteen years on duty as Junior Engineer, Overseer or Draughting*

Officer and has proved himself to be efficient may”, which means collectively one must have completed 18 years of service as it does not specifically indicates how much service one has to put in each category and that is why the term “total service” is used. It was further contended that the petitioners strangely interpreted the Rules instead of challenging the Rules 9 and 10 and Rule 9 is only an enabling provision and the term used in Rule 9(b) and 10(c)(2)(a) cannot be isolated and as such the same is not redundant as contended by the learned counsel senior counsel for the petitioners.

9. It was contended that the Technological Diploma Board, Chennai, has now become the Directorate of Technical Education and produced a letter dated 06.07.2009 and contended that the respondents 3 to 23 are possessing necessary educational qualification as respondents 3 to 5 and respondents 9 to 11 are possessing DCE/BE, respondents 7, 8 and 12 are possessing B.E. and others possessing DCE. It was submitted that the letter dated 20.07.2009 written by Additional Director (Polytechnical), Directorate of Technical Education, Chennai, to the Additional Secretary to the Government Highways and Minor Ports (HK.1) Department,

Secretariat, Chennai, reveals that L.C.E./L.M.E. (Licenciate civil Engineering/Licenciate Mechanical Engineering) awarded by the Directorate of Technical Education, Tamil Nadu, is equivalent to Diploma in Civil Engineering/Diploma in Mechanical Engineering respectively awarded by the State Board of Technical Education and Training, Tamil Nadu and as such, the respondents 3 to 28 are possessing the prescribed educational qualification as per the Rules apart from experience eligibility for the promotion to the post of Assistant Divisional Engineer. Therefore, it was contended by the learned Additional Advocate General that the respondents 3 to 23 have been rightly promoted and appointed as Assistant Divisional Engineer as they are coming well within the prescribed qualification and eligibility under the Rules.

10. The learned Single Judge after considering the case upheld the Rules rejecting the contentions of the Assistant Engineers. The said order was challenged in W.A.Nos.1334 and 1336 of 2009. A Division Bench, by its judgment on 21.01.2010, dismissed the appeals.

11. It is submitted by the Junior Engineers that the State Government after supporting the Rules, amended the Rules. The new Rules now reads as under:

Category (1)	Method of recruitment (2)	Qualification (3)
Assistant Divisional Engineer	(a) Promotion	(1) Must possess a degree in Civil Engineering or a pass in Section A and B of the A.M.I.E (India) of Examinations; and b) Must have put in service for a period of not less than five years as Assistant Engineering Provided nothing contained in the rule shall adversely affect the serving Assistant Engineers possessing the qualification of B.E. (Mechanical) as on 02.04.2018.
	(b) Recruitment by transfer from among the holders of the post Junior Engineers in Tamil Nadu Highways Engineering Subordinate	a) Must possess a Diploma in Civil Engineering awarded by the State Board of Technical Education and Training. Provided nothing contained in item (a) above shall adversely affect the serving Junior Engineer possessing the qualification of D.M.E. (Mech) as on 02.04.2018; and

Category (1)	Method of recruitment (2)	Qualification (3)
	Service	(b) Must have served as Junior Engineer for a period of not less than ten years.

It is this Rule which is now under challenge in the instant writ petitions.

12. Mr.R.Singaravelan, learned Senior Counsel appearing for the writ petitioners would contend that by the amendment, the service qualifications are changed to the effect that one must have served as Junior Engineer for a period of not less than 10 years to be promoted to the post of Assistant Divisional Engineer. It is contended that under the pre-amended Rules, a Junior Engineer can be promoted as Assistant Divisional Engineer if his total service including the service as Draughtsman and Junior Engineer is not less than 10 years. It is stated that by virtue of this amendment, as of now, there are no Junior Engineers present who would have put in 10 years of service as Junior Engineer as senior most Junior Engineer who was available at the time of filing of the writ petitions had not put in 5

years. It is, therefore, submitted that there is no possibility for Diploma holders to be promoted to the post of Assistant Divisional Engineer and resultantly, they will not be able to promote further to the post of Superintending Engineer, Chief Engineer etc. and most of the Junior Engineers have been superannuated before reaching the post of Assistant Divisional Engineer itself. It is the contention of the learned Senior counsel for the petitioners that any Rule which has the effect of completely taking away the chance of promotion cannot stand the test of Article 14 of the Constitution of India and it deserves to be set aside.

13. It is also contended by learned Senior Counsel appearing for the petitioners that the Junior Engineers working in the Highways Department are being discriminated from other services. The learned counsel for the petitioners would point out that there are provisions in the Chennai Metro Water Supply and Sewerage Board services and other services, wherein there is no requirement of putting in 10 years of service as Junior Engineer.

14. It is also contended that there are many Junior Engineers who have acquired a Degree in Engineering and they also have to wait for 10 years before being eligible to be considered. He would therefore submit that after acquiring Degree in Engineering, he cannot be discriminated from other Assistant Engineers on the ground of experience since the educational qualification is the same. He would submit that unlike other services, there is no automatic re-designation of Junior Engineers to Assistant Engineers on acquiring a Degree in Engineering. It is further submitted by the learned Senior counsel for the petitioners that the reasons given for bringing about the amendment is directly contrary to the stand taken by the very same Government before the learned Single Judge when the Rule was challenged by the Assistant Engineers. He would therefore submit that the Government cannot be permitted to approbate and reprobate and it is not expected of a fair Government to change its stand.

15. It is further contended that the notification would show that it is only a subjective satisfaction of the Director General who has brought about the amendment and the satisfaction of the Director General of the Highways Department cannot become satisfaction of

the Government itself and there is complete non-application of mind on the Government before bringing into effect the amendment. He would submit that for each and every amendment, reasons have to be given because every amendment takes away the right of a Junior Engineer to be considered.

16. Learned counsel would state that there is no nexus between the object to be sought. It is submitted that the entire exercise has been done at the behest of the Assistant Engineers and has been done in order to circumvent the order of the learned Single Judge in W.P.No.8870 of 2008 etc. batch and the Division Bench judgment in W.A.Nos.1334 and 1336 of 2009. He would state that the amendment has been brought with malafides.

17. On the other hand, Mr.N.Subramanian, learned counsel appearing for the impleaded Association of Tamil Nadu Highways Engineers would state that there is very serious stagnation among the Decree holders in their promotion. He would state that because of Degree qualification, they are not even eligible to take part in the entrance examination. Only working for 10 years as Junior

Engineers, the Diploma holders are stealing a march over the Degree holders. He would submit that the Government is within its rights to prescribe the qualifications. The Government felt that only a person with 10 years standing as Junior Engineer would be able to be promoted as Assistant Divisional Engineer.

18. Learned counsel would state that there is nothing wrong in the Government taking a policy decision whereby the Government has equated 5 years qualification as Assistant Engineer and 10 years experience as Junior Engineer. He would state that the nature of work and the responsibility of an Assistant Engineer is more than that of a Junior Engineer and therefore, a Junior Engineer cannot claim that his service as Draughtsman, Overseer etc. were primary desk job to be clubbed with the experience as Junior Engineer. He would submit that only becoming a Junior Engineer, a person starts doing the field work and therefore, the Government could make such a policy.

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19. It is contended that under the old rules, when promotions were made to the category of Assistant Divisional Engineer, Junior

Engineers, who did not complete 10 years of service as Junior Engineer and who joined as Junior Engineers later to the Assistant Engineers got promotion earlier to Assistant Divisional Engineers taking into consideration of the service the said Junior Engineers rendered in lower categories, i.e., before promoted as Junior Engineers. This lead to a position that a lower qualified and lesser experienced Junior Engineers overlook higher qualified and longer experienced Assistant Engineers in appointment to the next higher category of Assistant Divisional Engineer. Therefore, the Assistant Engineers and the second respondent-Association filed writ petitions in W.P.No.8870 of 2008 etc., challenging the appointment of Junior Engineers who did not complete 10 years service as Junior Engineers as Assistant Divisional Engineers by recruitment by transfer overlooking the senior Assistant Engineers. The writ petition was dismissed by this Court holding that the rules had not been challenged and the writ appeal filed in W.A.Nos.1334 and 1336 of 2009 by the second respondent and some Assistant Engineers were also dismissed holding that in the absence of challenge to the rules such overlooking senior Assistant Engineers by Junior Engineers cannot be questioned and the Junior Engineers are entitled to be

promoted either with 10 years experience as Junior Engineer or Draughtsman as stipulated under item 2(a) and 2(b) under Rule 10 against the category Assistant Divisional Engineer or with 18 years total service as stipulated under item 3(a) and 3(b) against the category of Assistant Divisional Engineer under Rule 10.

20. It is submitted that even as per the judgment, the rules have been interpreted to enable a Junior Engineer with total service 18 years from lower categories even without any service as Junior Engineer also could be appointed as Assistant Divisional Engineer by recruitment by transfer even if he overtakes a senior Assistant Engineer, contrary to the position in other Engineering Departments and the practice followed throughout the State. Therefore, the second respondent-Association represented to the Government to amend the Rules to remove the discrimination and accordingly, the Government amended the Rules prescribing a minimum qualification of 10 years service in the category of Junior Engineer for appointment by recruitment by transfer in consonance with all other Engineering Departments.

21. He would state that the State has powers to amend the Rules in compliance with Article 14 of the Constitution of India and the malafide alleged is not tenable, inasmuch as, it is settled law that no motive can be attributed to legislation. He would submit that the arguments of the petitioners that no Junior Engineers were available for promotion and therefore, 3 : 1 ratio will be completely broken down is irrelevant to this case.

22. Learned counsel would submit that when the Assistant Engineers and Junior Engineers on appointment as Assistant Divisional Engineers get fused into one category and hence, there cannot be any claim based on the birth mark of Assistant Divisional Engineer. Mr.K.Venkataramani, Senior counsel appearing for some of the respondents would adopt the argument of Mr.N.Subramanian. Mr.R.Udhayakumar, the learned Additional Government Pleader would contend that the method of recruitment for Assistant Engineer and Junior Engineer and also the qualifications in the two posts are entirely different and they cannot be compared each other. He would contend that a classification based on educational qualification is permissible and there is no question of any violation of Article 14 of

the Constitution of India.

23. Heard learned counsel for the parties.

24. The amendment to Rules 3, 4, 9, 10 and 13 of the Special Rules for Tamil Nadu Highways Engineering Service, relating to promotion as Assistant Divisional Engineer from the post of Junior Engineer by recruitment by transfer was brought up out by G.O.Ms.No.49 dated 02.04.2018. It is necessary to peruse the entire order to ascertain the reason as to why the impugned Government order was brought about. The entire order reads as under:-

"ORDER:

In the Government Order first read above, Orders were issued amending the Special Rules and certain Other Rule provisions of Tamiil Nadu HighWays Engineering Service.

2. In the letter second read above, the Director General, Highways Department has stated that the promotion / appointment to the post of Assistant Divisional Engineer are made from two different Categories viz.,-Assistant Engineer and Junior Engineer. He has proposed some changes on the qualification prescribed in the Special Rules which are not

offered by the Universities / Colleges now, and certain changes are routine in nature. The one of the changes proposed to increase the service qualification to be rendered by the Junior Engineer from 5 years to 10 years for appointment as Assistant Divisional Engineer. The academic qualification of B.E., degree consists of six years after completion of 10th standard whereas a person can obtain the diploma qualification in three years after completion of 10th standard. Further the academic curriculum for degree and diploma are not same as can be seen from the syllabus given below:

Syllabus for B.E., degree	Syllabus for Diploma
Mathematics, Engineering Physics and Chemistry, Construction materials; and Technology, Surveying Strength of Material, Concrete Technology, Design of Masonry, Timber & Steel Design of Steel structures, Design of RCC Elements, Foundation Engineering, Earth Quake Engineering, Structural , Design etc.,	Engineering Mechanics Construction Materials, Surveying, Theory of Structures, Structural Engineering, Construction Management etc

3. The Director General, Highways Department has also stated that, academic qualification of B.E., degree is definitely higher than that of diploma in Engineering and the theoretical

knowledge of B.E degree holders and practical experience gained by such B.E., degree holders in the post of Assistant Engineer and Assistant Divisional Engineer in the fields of preparation of estimates, Civil designs, adoption and handling of modern Engineering techniques in Roads and Bridges construction work could not be equated with that of an Assistant Divisional Engineer with diploma in Engineering qualification. An Assistant Engineer who is selected and appointed through Tamil Nadu Public Service Commission assumes individual responsibility from the date of his appointment, where as a Junior Engineer, prior to his appointment by recruitment by transfer, from the post of itaughting Officer/Junior Draughting Officer works in office post which assumes only collective responsibility considering the longer duration, larger quantum of studies, appointment through competitive examination by the Tamil Nadu Public Service Commission and assuming the individual responsibility from the beginning, there is no need for revision of service qualification of 5 years in respect of Assistant Engineers.

4. The Director General, Highways Department has further stated that, a Junior Engineer with less than five years of service and who has been appointed as Junior Engineer by recruitment by transfer from the post of Draughting Officer / Junior Draughting Officer is able to get promotion as Assistant Divisional Engineer by counting his service rendered in the post of Draughting Officer / Junior Draughting Officer for reckoning 10 ,years period. This leads to a peculiar situation of Less

qualified, person performing higher job which require sufficient field and technical knowledge. Further, in other Engineering Departments like Public Works Department, Slum Clearance Board, Metro Water, etc, there is a specific provision in their Service Rules that a Junior Engineer has to put in a minimum ten years of service in the post of Junior Engineer itself, to consider him/her for promotion to the post of Assistant Divisional Engineer. Hence a minimum service of ten years of service in the post of Junior Engineer need to be prescribed for considering Junior Engineers for promotion to the post of Assistant Divisional Engineer, which is prescribed in other Departments. The Public Works Department has prescribed not less than ten years of service qualification to appoint as Assistant Executive Engineer in Tamil Nadu Engineering Service from Junior Engineers of Tamil Nadu Engineering Subordinate Service by recruitment by transfer vide Rule 5 of Tamil Nadu Engineering Service. Hence revision of service qualification from 5 years to 10 years for promotion to Assistant Divisional Engineer, from Junior Engineer is proper and he has therefore requested the Government to amend the Special Rules for Tamil Nadu Highways Engineering Service on the above lines.

5. The government after detailed examination has accepted the proposal of Director General, Highways Department and to amend the rule 3,4,9,10 and 13 of Special Rules for Tamil Nadu Highways Engineering Service relating to promotion as Assistant Divisional Engineer from the post of Junior Engineer by recruitment by transfer."

25. A perusal of the order would show that the Director General, Highways Department was of an opinion that the erstwhile rule was leading to a peculiar situation of less qualified performing higher jobs which required field and technical knowledge. It was also opined that the Junior Engineer has to put in a minimum of 10 years of service so as to gain enough experience to handle field jobs and that time spend as Draughtsman or overseer which are primarily desk jobs cannot be considered to be sufficient experience for making a Junior Engineer eligible to be promoted as a Assistant Divisional Engineer. The argument of Mr.N.Subramanian, that an Assistant Engineer is a degree holder and has cleared a competition examination and therefore, he would more suitable than a person who did not get an Engineering degree and is working as a Junior Engineer after being promoted from the ranks to perform the work of an Assistant Divisional Engineer is well founded. The argument that assuming that the Junior Engineer has managed to get a degree qualification is in itself not sufficient to claim that he is equivalent to an Assistant Engineer with five years experience for the only reason

that the Assistant Engineer who is a degree holder has qualified an entrance examination with the Junior Engineer did not. A classification made on the basis of educational qualification is not new.

26. The Hon'ble Supreme Court in a recent decision of ***State of Uttarakhand & Ors. Vs. S.K.Singh [2019] 10 SCC 49***, has trace the history of various judicial pronouncement where higher educational qualification had been repeatedly emphasized as an aspect which can give an faster promotion. Para 17 to 30 of the said judgment reads as under:-

"17. The same set of judicial precedents were cited and debated before us by both the sides.

18. The first in the sequence is the judgment of the Constitution Bench in Mohd. Shujat Ali v. Union of India [Mohd. Shujat Ali v. Union of India, (1975) 3 SCC 76 : 1974 SCC (L&S) 454] . The judicial review of comparative merits of different educational qualifications was debated along with the Rules conferring the right of promotion or the right to be considered for promotion. It is in that context, observations have been made as to when the Rules can be said to suffer from infraction under Articles 14 and 16 of the Constitution. The discussion is in paras 23 to

28.

19. While recognising that equal protection of law is "pledge of the protection of equal laws", it was observed, "but laws may classify". While referring to the observations [Atchison, *Topeka & Santa Fe Railway Co. v. Matthews*, 1899 SCC OnLine US SC 92 : 43 L Ed 909 : 174 US 96 (1899)] of Brewer, J. "the very idea of classification is that of inequality", it was recognised that the Court had tackled the paradox over the years while neither abandoning the demand for equality, nor denying the legislature the right to classify. Thus, a middle course of realistic reconciliation was adopted i.e. the doctrine of reasonable classification. As to what could be understood by the expression "similarly situated" was then debated, recognising the right of the legislature, so that the test of being similarly situated does not denigrate into a rigid formula, to be blindly and mechanically applied. The doctrine of classification was not to be carried out to a point where instead of being a useful servant, it would become a dangerous master as otherwise, in the words of Y.V. Chandrachud, J. (as he then was) in *State of J&K v. Triloki Nath Khosa* [*State of J&K v. Triloki Nath Khosa*, (1974) 1 SCC 19 : 1974 SCC (L&S) 49] : (SCC p. 33, para 31)

"31. ... the guarantee of equality will be submerged in class legislation masquerading as laws meant to govern well-marked classes characterised by different and distinct attainments."

There could not be an overemphasis on the doctrine of classification to deprive the guarantee of equality of its spacious content.

20. The application of this principle was thereafter set out in para 28, where the earlier judgments have been debated. We consider it appropriate to extract the said para as under: (Mohd. Shujat case [Mohd. Shujat Ali v. Union of India, (1975) 3 SCC 76 : 1974 SCC (L&S) 454] , SCC pp. 105-07)

"28. Now, there are three decisions of this Court where educational qualifications have been recognised as forming a valid basis for classification. In State of Mysore v. P. Narasinga Rao [State of Mysore v. P. Narasinga Rao, (1968) 1 SCR 407 : AIR 1968 SC 349] this Court held that higher educational qualifications such as success in SSLC examination are relevant considerations for fixation of higher pay scale for tracers who have passed the SSLC examination and the classification of two grades of tracers in Mysore State, one for matriculate tracers with higher pay scale, and the other for non-matriculate tracers with lower pay scale, cannot be said to be violative of Article 14 or 16. So also in Union of India v. S.B. Kohli [Union of India v. S.B. Kohli, (1973) 3 SCC 592 : 1973 SCC (L&S) 136] , a Central Health Service Rule requiring that a Professor in Orthopaedics must

have a post-graduate degree in particular speciality was upheld on the ground that the classification made on the basis of such a requirement was not "without reference to the objectives sought to be achieved and there can be no question of discrimination". A very similar question arose in State of J&K v. Triloki Nath Khosa [State of J&K v. Triloki Nath Khosa, (1974) 1 SCC 19 : 1974 SCC (L&S) 49] where a rule which provided that only degree-holders in the cadre of Assistant Engineers shall be entitled to be considered for promotion to the next higher cadre of Executive Engineers and diploma-holders shall not be eligible for such promotion, was challenged as violative of the equal opportunity clause. This Court repelled the challenge holding that 'though persons appointed directly and by promotion were integrated into a common class of Assistant Engineers, they could, for the purposes of promotion to the cadre of Executive Engineers, be classified on the basis of educational qualifications' and 'the rule providing that graduates shall be eligible for such promotion to the exclusion of diploma-holders', was not obnoxious to the fundamental guarantee of equality and equal opportunity. But from these decisions it cannot be laid down as an invariable rule that whenever any classification is made on the basis of variant

educational qualifications, such classification must be held to be valid, irrespective of the nature and purposes of the classification or the quality and extent of the differences in the educational qualifications. It must be remembered that 'life has relations not capable always of division into inflexible compartments'. The moulds expand and shrink. The test of reasonable classification has to be applied in such case on its peculiar facts and circumstances. It may be perfectly legitimate for the administration to say that having regard to the nature of the functions and duties attached to the post, for the purpose of achieving efficiency in public service, only degree holders in engineering shall be eligible for promotion and not diploma or certificate holders. That is what happened in State of J&K v. Triloki Nath Khosa [State of J&K v. Triloki Nath Khosa, (1974) 1 SCC 19 : 1974 SCC (L&S) 49] and a somewhat similar position also obtained in Union of India v. S.B. Kohli [Union of India v. S.B. Kohli, (1973) 3 SCC 592 : 1973 SCC (L&S) 136] . But where graduates and non-graduates are both regarded as fit and, therefore, eligible for promotion, it is difficult to see how, consistently with the claim for equal opportunity, any differentiation can be made between them by laying down a quota of promotion for each and giving preferential treatment to graduates over

non-graduates in the matter of fixation of such quota. The result of fixation of quota of promotion for each of the two categories of Supervisors would be that when a vacancy arises in the post of Assistant Engineer, which, according to the quota is reserved for graduate Supervisors, a non-graduate Supervisor cannot be promoted to that vacancy, even if he is senior to all other graduate Supervisors and more suitable than they. His opportunity for promotion would be limited only to vacancies available for non-graduate Supervisors. That would clearly amount to denial of equal opportunity to him. When there is a vacancy earmarked for graduate Supervisors, a non-graduate Supervisor would be entitled to ask:

'I am senior to the graduate Supervisor who is intended to be promoted. I am more suitable than he is. It is no doubt true that I am a non-graduate, but my not being a graduate has not been branded as a disqualification. I am regarded fit for promotion and, like the graduate Supervisor, I am equally eligible for being promoted. My technical equipment supplemented by experience is considered adequate for discharging the functions of Assistant Engineer. Then why am I being denied the opportunity for promotion and the graduate Supervisor is preferred?'

There can be no satisfactory answer to this question. It must be remembered that many of these non-graduate Supervisors might not have been able to obtain degree in engineering because they came from poorer families and did not have the financial resources to pursue degree course in engineering and not because they lacked the necessary capacity and intelligence. "Chill penury" might have "repressed their noble rage". It is of the essence of equal opportunity for such persons with humble and depressing backgrounds that they should have opportunity, through experience or self-study, to level up with their more fortunate colleagues who, by reason of favourable circumstances, could obtain the benefits of higher education, and if they prove themselves fit and more suitable than others, why should they be denied an opportunity to be promoted in a vacancy on the ground that vacancy belongs to Supervisors possessing higher educational qualifications. As pointed out by Krishna Iyer, J., in State of J&K v. Triloki Nath Khosa [State of J&K v. Triloki Nath Khosa, (1974) 1 SCC 19 : 1974 SCC (L&S) 49]

'the soul of Article 16 is the promotion of the common man's capabilities, overpowering environmental adversities and opening up full opportunities to develop in official life without

succumbing to the sophistic argument of the elite that talent is the privilege of the few and they must rule'.

To permit discrimination based on educational attainments not obligated by the nature of the duties of the higher post is to stifle the social thrust of the equality clause. A rule of promotion which, while conceding that non-graduate Supervisors are also fit to be promoted as Assistant Engineers, reserves a higher quota of vacancies for promotion for graduate Supervisors as against non-graduate Supervisors, would clearly be calculated to destroy the guarantee of equal opportunity. But even so, we do not think we can be persuaded to strike down the Andhra Pradesh Rules insofar as they make differentiation between graduate and non-graduate Supervisors. This differentiation is not something brought about for the first time by the Andhra Pradesh Rules. It has always been there in the Engineering Services of the Hyderabad and the Andhra States. The graduate Supervisors have always been treated as a distinct and separate class from non-graduate Supervisors both under the Hyderabad Rules as well as the Andhra Rules and they have never been integrated into one class. Under the Hyderabad Rules, the pay scale of graduate Supervisors was Rs 176-300, while that of non-

graduate Supervisors was Rs 140-300 and similarly, under the Andhra Rules the pay scale of non-graduate Supervisors was Rs 100-250, but graduate Supervisors were started in this pay scale at the stage of Rs 150 so that their pay scale was Rs 150-250. Graduate Supervisors and non-graduate Supervisors were also treated differently for the purpose of promotion under both sets of rules. In fact, under the Andhra Rules a different nomenclature of Junior Engineers was given to graduate Supervisors. The same differentiation into two classes also persisted in the reorganised State of Andhra Pradesh. The pay scale of Junior Engineers was always different from that of non-graduate Supervisors and for the purpose of promotion, the two categories of Supervisors were kept distinct and apart under the Andhra Rules even after the appointed day. The common gradation list of Supervisors finally approved by the Government of India also consisted of two parts, one part relating to Junior Engineers and the other part relating to non-graduate Supervisors. The two categories of Supervisors were thus never fused into one class and no question of unconstitutional discrimination could arise by reason of differential treatment being given to them. Contention E cannot, therefore, prevail and must be rejected."

(emphasis supplied)

21. The private respondents sought to take advantage of the observations of this para 28 of Mohd. Shujat case [Mohd. Shujat Ali v. Union of India, (1975) 3 SCC 76 : 1974 SCC (L&S) 454] as a whole, and more specifically, to the portion set out in bold. But yet had to concede that after propounding the social philosophy, the fact remains that the Constitution Bench found it difficult, and actually did not give any relief, while quashing the Rule in question.

22. The private respondents also referred to the judgment of the two-Judge Bench of this Court in Punjab SEB v. Ravinder Kumar Sharma [Punjab SEB v. Ravinder Kumar Sharma, (1986) 4 SCC 617 : 1987 SCC (L&S) 13 : AIR 1987 SC 367] which had struck down the Rule in respect of quota being carved out between the degree-holders and the diploma-holders of line men. However, this would not be of much relevance, as this judgment was subsequently overruled in P. Murugesan v. State of T.N. [P. Murugesan v. State of T.N., (1993) 2 SCC 340 : 1993 SCC (L&S) 445]

23. In Roop Chand Adlakha v. DDA [Roop Chand Adlakha v. DDA, 1989 Supp (1) SCC 116 : 1989 SCC (L&S) 235] , promotion from different sources, prescribing different eligibility conditions on the basis of educational qualifications and service experience as being violative of Articles 14 and 16 of the Constitution was debated. The

inherent distinction between a person with a degree and one with merely a diploma was stated to be much too obvious. But, whether that difference has a reasonable relation to the nature of the office to which the promotion is contemplated was stated to be a different aspect. What was observed was that this may vary from case to case, and difference in qualification has to have a reasonable relation to the nature of duties and responsibilities that go with, and are attendant upon the promotion post. Thus, "to overdo classification is to undo equality". The relevant aspect found in that was that different standards and conditions for eligibility were prescribed with a view to inject a higher technical quality in the promotional cadre, based on the recommendations of the committee. The Rules were, thus, once again upheld. The aspect which was stated to be of significance by the learned counsel for the private respondents was that in the given facts of the case before us, there were no material placed to show the connect between the higher qualification and the greater efficiency in the promotional post. Now returning to P. Murugesan [P. Murugesan v. State of T.N., (1993) 2 SCC 340 : 1993 SCC (L&S) 445] case, the amended Rules introduced a ratio of 3:1 between graduate AEs and diploma-holders JEs for promotion to the post of Assistant Executive Engineers. These Rules were held not to be violative of Articles 14 and 16 of the Constitution, opining that the rule-making authority was competent to impose a complete bar, as well as partial restrictions on the category of promotees, on the

basis of educational qualifications.

24. It may also be noticed that the rule-making power, under the proviso to Article 309 of the Constitution has been emphasised as legislative in nature and thus, the test to determine the constitutionality of any provision of such Rule is whether the legislature was competent to enact such a provision.

25. On referring to the earlier judgments, including in *State of J&K v. Triloki Nath Khosa* [*State of J&K v. Triloki Nath Khosa*, (1974) 1 SCC 19 : 1974 SCC (L&S) 49] case, it was, once again emphasised that minute and microscopic classification should not be permitted, nor should the Court countenance, in the words of Krishna Iyer, J. "mini-classifications based on micro-distinctions". It is, however, also noticed that right from 1974 i.e. since the decision of the Constitution Bench in *State of J&K v. Triloki Nath Khosa* [*State of J&K v. Triloki Nath Khosa*, (1974) 1 SCC 19 : 1974 SCC (L&S) 49] case, this Court had been uniformly holding that even where direct recruits and promotees are integrated into a common class, they could for the purpose of promotion to the higher cadre, be classified on the basis of educational qualification. The conclusion, thus, was that if the diploma-holders can be barred altogether from promotion, it was difficult to appreciate how and why the rule-making authority can be precluded from restricting the promotion. Thus, "the rule-making authority may be of the

opinion, having regard to the efficiency of the administration and other relevant circumstances that while it is not necessary to bar the diploma-holders from promotion altogether, their chances of promotion should be restricted. On principle, there is no basis for the contention that only two options are open to a rule-making authority—either bar the diploma-holders altogether or allow them unrestricted promotion on a par with the graduates”.

26. The last judgment to be cited, to be considered by us, is of the two Judges in M. Rathinaswami v. State of T.N. [M. Rathinaswami v. State of T.N., (2009) 5 SCC 625 : (2009) 2 SCC (L&S) 101] In a case of an integrated list of seniority between direct recruits and promotees, preferential treatment, thereafter, based on educational qualifications was held as valid for considering promotion. However, among equally qualified candidates, there could be no further classification. The similarity of factual matrix is reflected, as the Junior Assistants holding the post were both graduates and postgraduates, though the minimum educational qualification was SSLC. From the post of Junior Assistants, the promotion was to the post of Assistants, and there could also be direct recruitment through competitive examinations. The minimum qualification for direct recruitment of Assistants was graduation. The promotion of Assistants to the post of Deputy Tahsildar was in question. The directly recruited Assistants were given preferential treatment by making them eligible for promotion as Deputy

Tahsildar on completion of five (5) years as Assistants, while placing them above the senior, graduate promotee Assistants. In that context, it was observed that once the directly recruited Assistants have been integrated into one cadre, there could not be a further classification between those who had acquired the graduation qualification, whether before joining as Junior Assistants or thereafter. It was also left to the State to decide whether their qualification has a reasonable relation to the nature of duties and responsibilities of the promotional post. Similarly, regarding the question whether the difference in educational qualification is sufficient to give preferential treatment to one class of candidates against another, it was opined to be ordinarily left to the executive authorities to decide, as they have expertise in administrative matters and, ordinarily, it would not be proper for the court to sit in appeal over their decisions, unless it is something totally arbitrary or shocking.

27. The spectrum of judicial opinions referred to aforesaid leaves us with little doubt that though equality is the very bulwark of the provisions of the Constitution, in service jurisprudence, classifications are a matter of necessity and judicial pronouncements have sought to balance the equality principle with the principle of classification, dependent on the nexus for making the classification. Higher educational qualifications have been repeatedly emphasised as an aspect which can give exclusive

promotion, earlier promotion or for that matter, as in this case, an accelerated promotion. A higher degree of qualification intrinsically would bring in certain skills, though undoubtedly, that should be useful and have a nexus with the job being performed. As to who should examine this nexus, that has been left to the wisdom of the administrative authorities, who are best equipped to do so [M. Rathinaswami v. State of T.N., (2009) 5 SCC 625 : (2009) 2 SCC (L&S) 101] .

28. It has also been opined that even where persons having two different qualifications are given the opportunity of promotion, there cannot be an absolute equality for the reason that the administration may consider giving the lesser qualified an opportunity of promotion on different terms, rather than completely prohibiting them from promotion.

29. We are conscious of the fact that in further posts, higher than AE, there is no distinction between persons having different qualifications. There are no direct appointments. The posts are filled in only through promotions. The question is: what is really being done? In our view, all that has been done is that, at a particular promotion stage, in the wisdom of the administration, recognising higher skills developed through higher qualifications, and as an incentive to others to acquire these higher qualifications, an accelerated promotion on a small

percentage of posts had been granted.

30. We did put to the learned counsel for the private respondents if they could have been shut out from promotion, or if the time periods could have been different for promotion, then the result would have been the same as their grievance today i.e. some of the degree-holders would rank higher than the diploma-holders. Thus, this is not something out of the ordinary which has happened, or would result in a situation which can be categorised extraordinary by reason of accelerated promotion to the degree-holder."

27. Since the said judgment crystallizes the position of law as it exists as on date, it is not necessary to cite other judgments on the same proposition that in matters of service jurisprudence higher educational qualifications have been repeatedly emphasized as a criteria which can give exclusive higher or accelerated promotion. It is trite law that rule making authority can be of the opinion having regard to the efficiency of the administration that while it is not necessary to bar the Diploma holder from promotions altogether, their chances of promotion should be restricted. It is well settled that the State consistent with the requirement of the promotional post and

the interest of efficiency of service is not precluded from conferring eligibility on diploma holder conditioning it by other requirements which may include certain quantum of service. **[Refer : Roop chand Adlakha Vs. Delhi Development Authority, (1989) Supp. 1 SCC 116].**

28. The contention of Mr.R.Singaravelan, learned Senior Counsel appearing for the writ petitioners that the amendment brought about in the rules takes away the chance of being considered which is violative of Article 14 and is therefore not permitted, also cannot be accepted. The Hon'ble Supreme Court in K.Jegadeesan Vs. Union of India, [1990] 2 SCC 228 has observed as under:-

"5. Strong reliance was placed by the learned counsel for the appellant on the decision of this Court in T.R. Kapur v. State of Haryana [1986 Supp SCC 584, 595: (1987) 2 ATC 595] where it was held that right to be considered for promotion is a condition of service. This decision is, however, of no assistance to the learned counsel in support of his argument because the bench which rendered the said decision has stated as follows: (SCC p. 595, para 16)

"It is well settled that the power to frame rules to regulate the conditions of service under the proviso to Article 309 of the Constitution carries with it the power to amend or alter

the rules with a retrospective effect.... It is equally well settled that any rule which affects the right of a person to be considered for promotion is a condition of service although mere chance of promotion may not be."

It was further held that: (SCC p. 595, para 16)

"an authority competent to lay down qualifications for promotion, is also competent to change the qualifications. The rules defining qualifications and suitability for promotion are conditions of service and they can be changed retrospectively."

It was, however, clarified that: (SCC p. 595, para 16)

"unless it is specifically provided in the rules, the employees who are already promoted before the amendment of the rules, cannot be reverted and their promotions cannot be recalled."

6. *It is only in this sense, that is, as set out in the immediately preceding paragraph that the view has been taken that the Rules cannot be retrospective. The ratio of this decision is not applicable to the case before us as there is no question of reverting the appellant. Again, it has been held by a bench comprising three learned Judges of this Court, in State of Maharashtra v. Chandrakant Anant Kulkarni [(1981) 4 SCC 130: 1981 SCC (L&S) 562] (at paragraph 16, page 141 of the said report), that mere chances of promotion are not conditions of service and the fact that there was reduction in the chances of promotion did not tantamount to a change in the condition of service. A right to be considered for promotion is a term of service, but*

mere chances of promotion are not. It was also held there that mere passing of the departmental examination conferred no right on the concerned S.T. Inspectors of Bombay, to promotion. They merely became eligible for promotion. They had to be brought on to a select list, not merely on the length of service but on the basis of merit-cum-seniority principle."

29. In view of the above, the argument of the learned Senior Counsel that, since the amendments takes away the right of being considered for promotion, it is violative of Article 14 of the Constitution of India cannot be accepted.

30. The fact that the State Government has filed a counter affidavit supporting the erstwhile rule cannot be a bar to the State Government to amend the rule which it had supported. As stated above, the Government order brings out the reason as to why the amendments were brought about. The principle of estoppel cannot be pleaded against the Government for bringing out the amendment to the rules.

31. It is also well settled that malafides cannot be attributed to legislation. No material has been produced to substantiate the contention, but the entire amendment was brought about only to favour the direct recruit Assistant Engineer. The Government order brings out the policy. As stated above, educational qualification can be a criteria to frame a policy for granting promotion depending upon the nature of work.

32. It is well settled that a legislation rule or a regulation can be held unconstitutional only when the legislature or the rule making authority was incompetent to bring out the legislation or rule or the said legislation or rule offends some provision of the Constitution or the rule is contrary to the principle Act or when it is manifestly arbitrary. It is also trite law that before declaring a statute or a rule to be unconstitutional, the Court must be absolutely sure that there can be no manner of doubt that it violates a provision of the Constitution or the rule under challenge is ultra vires the principle Act. It is well settled that if two views are possible, one making the statute constitutional and the other making it unconstitutional, the former

view must always be preferred. The Court must make every effort to uphold the constitutional validity of a statute, or rule even if that requires giving a strained construction or narrowing down its scope. It is only when all efforts to do so fail should the Court declare a statute to be unconstitutional.

33. In view of the above, it cannot be said that the amendment is violative of Part III of the Constitution of India or that the amendment is violative of any other right conferred under any law or the Constitution. There is a nexus between the amendment brought out to the service rule and the object sought to be achieved and therefore it cannot be said that the amendment is so manifestly arbitrary that it needs to be struck down.

34. Writ petitions therefore fail and dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

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(A.P.S., C.J.) (S.P., J.)
11.03.2020

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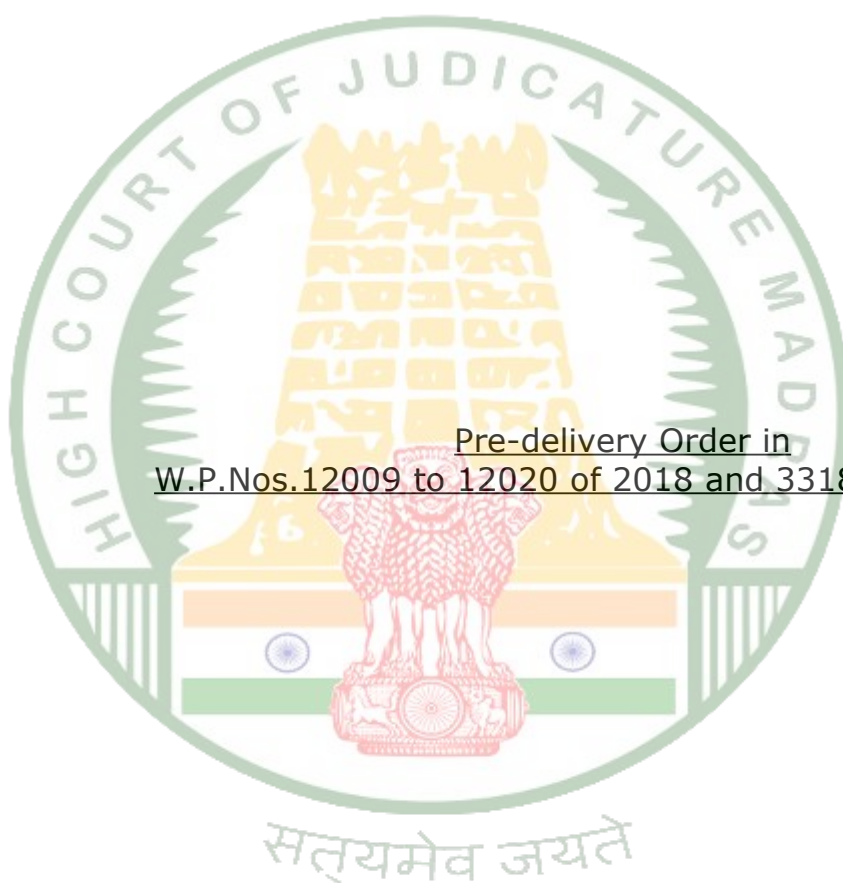
- 1.The Additional Chief Secretary/Secretary,
State of Tamil Nadu,
Highways and Minor Ports Department,
Fort St. George,
Chennai-600 009.
2. The General Secretary,
Association of Tamil Nadu Highways Engineers,
35, Taluk Office Road,
Saidapet, Chennai – 15.



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The Hon'ble Chief Justice
and
Subramonium Prasad, J.

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Pre-delivery Order in
W.P.Nos.12009 to 12020 of 2018 and 33180 of 2018

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