



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

WEB COPY

W.P. (MD) Nos.18027, 18054 of 2014 & 19992 of 2015 and
MP(MD) Nos.1,2 of 2014 & 1 of 2015 in W.P. (MD) No.18027 of 2014
MP(MD) Nos.1,2 of 2014 & 1 of 2015 in W.P. (MD) No.18054 of 2014
and
MP(MD) No.1 of 2015 in WP (MD) No.19992 of 2015

K. Karthikeyan	Petitioner in WP(MD)No.18027 of 2014
G. Karuppasamy	Petitioner in WP(MD)Nos.18054 of 2014 & 19992 of 2015

Vs

1. The Government of Tamil Nadu,
Rep by its Secretary,
Highways and Minor Ports (HK3) Department,
Fort St.George,
Secretariat,
Chennai - 600 009.
2. The Chief Engineer (General),
Highways Department,
Chepauk, Chennai - 600 005.
3. The Superintending Engineer,
Highways Department,
Reserve Line Road,
Palayamkottai,
Tirunelveli - 627 002.
4. The Divisional Engineer,
Highways Department,
Sivakasi Sub Division,
Virudhunagar Division,
Virudhunagar District - 626 001.

5. Jothimurugan
6. Ayyasamy
7. Selvakumar



9. Kottai Rajan
10. Duraipandi
11. Sankaranarayanan
12. Sivaprakash

Respondents No.1 to 12 in all WPs (MD)

13. Padmanabhan
14. Kannan
15. Haja Mohideen
16. Selvaraj
17. Kesavan
18. Vijayarajan
19. Radhakrishnan
20. Iyyaru
21. Rajagopal
22. Kumaresan
23. Pothiraj
24. Habiyathullah
25. Kumaresan
26. Renganathan
27. Natarajan
28. Murugapandi
29. Rajasekaran
30. Kannan
31. Veerachamy
32. Radhakrishnan
33. Baskaran
34. William Subramani
35. Arumugakani
36. Balamurugan

Respondents No.13 to 36 in
WP (MD) Nos.18027 & 18054 / 2014

37. Karuppasamy
38. Alagusamy

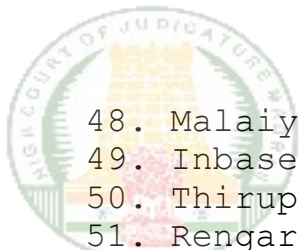
Respondents No.37 & 38
in WP (MD) No.18027 of 2014

37. Alagusamy
38. Karthikeyan

Respondents No. 37 & 38
in WP (MD) No.18054 of 2014

39. Muneeswaran
40. Murugan Senthilvel
41. Chinnathurai
42. Gurusamy
43. Muthukumar
44. Devasagayam
45. Karumalai
46. Kumar

47. Muniselvakumar



48. Malaiyarasan
49. Inbasekaran
50. Thiruppathiraj
51. Rengarajan
52. Ramachandran
53. Murugan
54. Kathiravan
55. Jeyapandi
56. Rajesh Kannan
57. Arul Raja
58. Gopalakrishnan
59. Ashtarajan
60. Subburaj
61. Rajendran
62. Ravichandran
63. Vairavan
64. Ramamoorthy
65. Senthilvel
66. Muneeswaran
67. Dhanapal

Respondents No. 39 to 67
in WP(MD)Nos.18027 & 18054 / 2014

COMMON PRAYER in WP(MD)Nos.18027&18054/2014: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned promotion panels issued by the fourth respondent in Ku.No.201/2012/A2 dated 14.02.2013 and Se.Mu.Ka.No.1688(1)/2014/A2, dated 23.09.2014 and the consequential promotion order of respondents 5 to 9 issued by the fourth respondent in Se.Mu.Ka.No.1688(2)/2014/A2, dated 23.09.2014, quash the said proceedings and consequently direct the fourth respondent herein to prepare a fresh appropriate panel for the post of Road Inspector Grade II by placing the petitioner in the appropriate place and by granting all eligible service and monetary benefits.

PRAYER in W.P(MD) No.19992 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents 1 to 4 herein from promoting the respondents 10 to 12 herein for the post of Road Inspector Grade II in the fourth respondent division, contrary to the interim order passed by this Court in M.P.(MD) No.2 of 2014 in W.P.(MD) No.18054 of 2014, dated 10.11.2014.

For Petitioner

in all WPs(MD) : Mr.A.Saravanan

For Respondents

in all WPs(MD) : For R1 to R4 - Mr.S.Dhayalan
Government Advocate



COMMON ORDER

Challenging the promotion panel prepared by the fourth respondent enclosing the seniority list for the post of Road Inspector Grade II in the fourth respondent division and the impugned order passed by the fourth respondent in Se.Mu.Ka.No.1688 (2)/2014/A2, and to forbear the respondents 1 to 4, from promoting the respondents 10 to 12, for the post of Road Inspector Grade II in the fourth respondent division, contrary to the interim order passed by this Court in M.P.(MD) No.2 of 2014 in W.P.(MD) No.18054 of 2014, dated 10.11.2014, these Writ Petitions have been filed.

2. The case of the petitioners is that when at the time of their initial appointment as road worker in the respondent's Highways Department, they have possessed the qualification of 10th standard under regular stream of studies. Subsequently, their services were regularized on 10.11.1998. Next promotion from the post of road worker is Road Inspector Grade II, for which essential qualification prescribed in G.O.Ms.No.193/Highways and Minor Ports (HK3) Department dated 01.08.2008 is "must have passed 10th standard from a recognized school". As per G.O.Ms.No.34 Highways and Minor Ports (HK3) Department dated 29.01.2008, qualification for recruitment by transfer from the post of Gang Mazdoor/Road worker is i) must have passed S.S.L.C or Higher Secondary Examination in a recognized school. ii) Must have completed 5 years of service in the post of Gang Mazdoor and iii) Must possess a sound physique and obtain a Certificate of physical fitness from a medical officer. The same qualification was prescribed in G.O.Ms.No.16 Highways and Minor Ports (HK3) Department dated 21.01.2009. Moreover, it was clearly stated in G.O.Ms.No.34 that 75% vacancies in the post of Road Inspector Grade II shall be filled by directed recruitment and the remaining 25% by recruitment by transfer from the post of Gang Mazdoor i.e 3:1 ratio. But, the fourth respondent had passed a promotional order dated 23.09.2014 in Se.Mu.Ka.No.1688(2)/2014/A2 along with the impugned seniority list, the respondents 5 to 9 were promoted, whose qualification was 9th failed, 8th pass, 8th pass and 9th failed respectively, at the time their joining and they have completed pre-foundation course, while in service. As per G.O.Ms No.144 personal and Administrative Reforms (M) Department dated 20.11.2017, it is made clear that pre-foundation course and the foundation courses awarded by various universities cannot be recognized as equivalent to S.S.L.C., or Higher Secondary Course. In this regard, though the petitioners along with others have submitted their representation during 2014 itself, no action has been taken by the respondents. Hence, the petitioners have come up with these present Writ petitions.



3. The learned counsel for the petitioners submitted that though G.O.Ms No.144 Personal and Administrative Reforms (M) Department dated 20.11.2017 clarifies that pre-foundation course and the foundation courses awarded by various universities cannot be recognized as equivalent to S.S.L.C., or Higher Secondary Course, the respondent have promoted the persons, who are not having the prescribed qualification. Further, the learned counsel has relied upon the orders of this Court in W.P.(MD) No.22071 of 2015 and W.A.No.213 of 2018. The learned counsel further relied upon the letter dated 08.04.2019, addressed by the Additional Secretary to Government, Highways and Minor Ports Department in Letter No.1704/H.R.1/2019-2 and prayed to quash the proceedings of the fourth respondent and to direct the fourth respondent to prepare a fresh appropriate panel for the post of Road Inspector Grade II, by placing the petitioner in the appropriate place and by granting all eligible service and monetary benefits.

4. Heard the learned counsel for the petitioner and perused the documents available.

5. On a perusal of the available records shows that as per G.O.Ms No.144 Personal and Administrative Reforms (M) Department dated 20.11.2017, the pre-foundation course and the foundation courses awarded by various universities cannot be recognized as equivalent to S.S.L.C., or Higher Secondary Course. Further, based on the said principles laid down, this Court in W.P.(MD) No.22071 of 2015 and W.A.No.213 of 2018 has passed orders and the relevant portions are extracted hereunder:-

9....In any event, it has been clarified that pre-foundation and foundation courses were considered as not equivalent to SSLC/HSC

10. Though it appears to be sound on the part of the petitioner that 10th standard alone is sufficient for promotion to the post of Junior Assistant, but completion of 10th standard through regular schooling system is a must for promotion. In the present case on hand, since the petitioner's qualification is not treated as equivalent, this Court is not inclined to accede to the prayer made by the petitioner.

Further, it is to be noted that an interim order has also been passed by this Court in W.P.(MD) No.2 of 2014 in WP(MD)No.18054 of 2014, wherein, it was held that "It is made clear that any promotion made is subject to the result of the Writ Petition". The learned counsel for the petitioner brought to the notice of this



Court that a letter has also been addressed by the Additional Secretary to Government, Highways and Minor Ports Department in Letter No.1704/H.R.1/2019-2 stating that it is correct to demote the persons who have promoted based on their completion of pre-foundation course, considering their qualification as equivalent to that of S.S.L.C, while G.O.Ms.No.144 dated 18.08.2009 is in force.

6. In view of the above observations, there shall be a direction to the fourth respondent herein to redo the impugned promotion panels issued by the them in Ku.No.201/2012/A2 dated 14.02.2013 and the consequential promotion order of respondents 5 to 9, in Se.Mu.Ka.No.1688(2)/2014/A2, dated 23.09.2014, based on the orders passed by this Court in W.P.(MD) No.22071 of 2015 and W.A.No.213 of 2018, by placing the petitioner in the appropriate place of seniority by preparing a fresh panel for the post of Road Inspector Grade II and to promote the petitioners from the day he becomes eligible with all consequential benefits.

7. With the above directions, the Writ Petitions in W.P. (MD) Nos.18027, 18054 of 2014 are allowed and in view of the orders passed in these two Writ Petitions, the Writ Petition in W.P.(MD) No.19992 of 2015 is closed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Government of Tamil Nadu,
Rep by its Secretary,
Highways and Minor Ports (HK3) Department,
Fort St.George,
Secretariat,
Chennai - 600 009.
2. The Chief Engineer (General),
Highways Department,
Chepauk,
Chennai - 600 005.



3. The Superintending Engineer,
Highways Department,
Reserve Line Road,
Palayamkottai,
Tirunelveli - 627 002.

4. The Divisional Engineer,
Highways Department,
Sivakasi Sub Division,
Virudhunagar Division,
Virudhunagar District - 626 001.

+3 CC to M/s.A.SARAVANAN, Advocate (SR-5009,4835 & 4837)

+1 CC to M/s.SPL GP (SR-5142[F] dated 06/02/2020)

Common order made in
W.P. (MD) Nos.18027, 18054 of 2014 & 19992 of 2015 and
MP (MD) Nos.1,2 of 2014 & 1 of 2015 in W.P. (MD) No.18027 of 2014
MP (MD) Nos.1,2 of 2014 & 1 of 2015 in W.P. (MD) No.18054 of 2014
and
MP (MD) No.1 of 2015 in WP (MD) No.19992 of 2015
05.02.2020

ns (CO)

TR(11.02.2020) 7P 9C