



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.6534 of 2012

G.Sundarraaj

... Petitioner

Vs.

1.The Divisional Engineer,
State Highways Department,
Ramanathapuram.

2.The Assistant Divisional Engineer,
State Highways Department,
(Construction and Maintenance),
Thiruvadanai,
Ramanathapuram District.

3.R.Suresh

4.G.Pandian

... Respondents

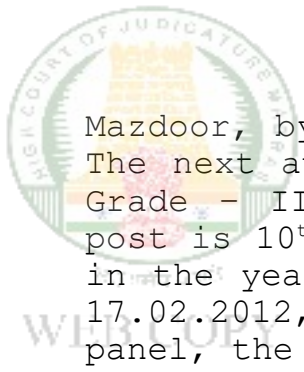
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in order in Se.Mu.Ka.No.1167/2010/B2, dated 27.04.2012 on the file of the first respondent and quash the same and further directing the first respondent to promote the petitioner to the vacancy in the post of Road Inspector Grade - II and other monetary benefits with effect from 27.04.2012.

For Petitioner	:	Mr.G.Prabhu Rajadurai
For R1 & R2	:	Mr.D.Muruganantham
		Additional Government Pleader
For R3 & R4	:	Mr.J.Anand Kumar

O R D E R

This writ petition has been filed challenging the impugned order passed by the first respondent, dated 27.04.2012 and to quash the same and consequently, direct the first respondent to promote the petitioner to the post of Road Inspector Grade - II with effect from 27.04.2012.

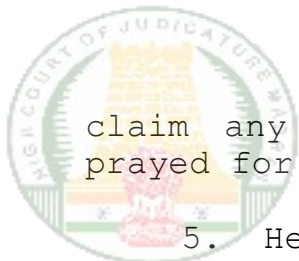
2. The case of the petitioner is that he belongs to Scheduled Caste Community and he was appointed as Gang Mazdoor in the State Highways Department, on 14.11.1997. Subsequently, his service was regularised on 30.09.1999. Thereafter, all the Gang Mazdoors were ousted from service by the Government. Later, the issue was decided by the Hon'ble Supreme Court and in compliance of the said order, the first respondent has allowed the petitioner to join duty as Gang



Mazdoor, by his order dated 12.02.2006, with continuity of service. The next avenue of promotion to the Gang Mazdoor is Road Inspector Grade - II and the minimum qualification to the said promotional post is 10th Standard and the petitioner has passed the 10th Standard in the year 2008. The first respondent, by his communication dated 17.02.2012, approved the panel of the Gang Mazdoor. In the said panel, the petitioner's Seniority No.55 is placed in second position and on 21.02.2012, he attended for certificate verification. However, the first respondent, by order dated 27.04.2012, promoted the respondents 3 and 4 to the post of Road Inspector Grade - II. It is the further case of the petitioner that the names of the respondents 3 and 4 were not included in the panel for the year 2012 and they are also juniors to the petitioner. Challenging the said order of promotion, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that the panel for promotion to the post of Road Inspector Grade - I was published in the year 2012, in which, the names of the private respondents were not found. However, the first respondent granted promotion to the respondents 3 and 4, which is illegal and the same is liable to be set aside. Accordingly, he prayed for allowing of this writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that admittedly, the petitioner and the private respondents were appointed as Gang Mazdoor in Ramanathapuram District, on 24.11.1997 and the next level of promotion to the post of Gang Mazdoor is Road Inspector Grade - II and the qualification for the said post is 10th Standard pass. Since the private respondents have passed the 10th Standard in the month of October 1994 and October 1995 respectively, their names were included in the panel for the year 2008, for promotion to the post of Road Inspector Grade - II and their serial numbers are 4 and 8. However, subsequently, the third respondent has issued a charge memo against the private respondents as if they suppressed the factum of 10th Standard pass, at the time of joining duty. Further, the said charge memo was quashed by this Court, in W.P.(MD). Nos.14193 and 14194 of 2011, dated 29.02.2012 and insofar as the other limb of prayer, seeking for a direction to the respondents to promote the petitioners to the post of Road Inspector Grade - II is concerned, it is for the respondents to consider the same and pass orders, if the petitioners are otherwise qualified to the said post also by taking note of the fact that the impugned charge memo is quashed in these writ petitions. In compliance of the said order, promotion was given to the private respondents, which is legally sustainable one. Further, the private respondents' names were found in the panel for the year 2008, whereas the name of the petitioner was found in the panel for the year 2012 and he passed the 10th Standard only in the year 2008. Therefore, the petitioner cannot



claim any seniority over the private respondents and hence, he prayed for dismissal.

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

6. In the case on hand, it is not in dispute that the petitioner and the private respondents were appointed as Gang Mazdoor in the year 1997 and the next level of promotion is Road Inspector Grade - II and the minimum qualification for the promotional post is 10th Standard pass. The private respondents have passed the 10th Standard in the month of October 1994 and October 1995 respectively. Therefore, their names were included in the panel for the year 2008. Subsequently, the third respondent has issued a charge memo against the private respondents as if they suppressed the factum of 10th Standard pass, at the time of joining duty and this Court has quashed the charge memo in W.P.(MD).Nos.14193 and 14194 of 2011, dated 29.02.2012. Therefore, the private respondents were given promotion. Whereas, the name of the petitioner was found in the panel for the year 2012 and he passed the 10th Standard only in the year 2008. Hence, this Court is not inclined to interfere with the order passed by the first respondent as no case has been made out by the petitioner to substantiate his grievance. Accordingly, this Writ Petition, being devoid of merits, is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Divisional Engineer,
State Highways Department,
Ramanathapuram.



2.The Assistant Divisional Engineer,
State Highways Department,
(Construction and Maintenance),
Thiruvadanai,
Ramanathapuram District.

WEB COPY

+1 CC to M/s.SPL GP (SR-4246[F] dated 10/02/2021)

+1 CC to M/s.G.PRABHU RAJADUAI, Advocate (SR-4164[F] dated
10/02/2021)

+1 CC to M/s.J.ANANDAKUMAR, Advocate (SR-4503[F] dated 11/02/2021)

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MJ(CO)
KB(27.04.2021) 4P 6C