



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.124 of 2018

and

C.M.P. (MD)No.652 of 2018

1.The Divisional Engineer (Highways),
Karur Division,
Karur.

2.The Assistant Divisional Engineer (Highways),
Karur Sub-Division,
Karur.

... Appellants/Respondents

Vs.

R.Janakiraman

... Respondent/Petitioner

Prayer : Appeal filed under Clause 15 of the Letters Patent Act against the order passed by this Court in W.P.(MD)No.11007 of 2017, dated 24.08.2017.

For Appellants

: Mr.K.P.Krishnadoss

Special Government Pleader

For Respondent

: Mr.J.Anandkumar

* * * * *

J U D G M E N T

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

This appeal has been preferred by the appellants challenging the order of the learned Single Judge, who upon coming to the conclusion that the charge pertains to an occurrence happened years ago, was pleased to quash it on the ground of delay and laches.

2.The respondent herein was appointed in the year 1997 as Road Worker. The minimum qualification prescribed for the said post at the relevant point of time was V Standard pass. The respondent has passed X Standard in the year 1988. It appears that X Standard pass was not a qualification for the post of Road Worker. It is further to be seen after nearly a decade, he sought for promotion, during which time, he has indicated that he has passed X Standard. Taking note of that, a charge memo was issued. This was quashed by the learned Single Judge. Challenging the same, the present appeal has been filed.



3.Learned Special Government Pleader appearing for the appellants submitted that there is no delay, in fact. Even assuming that there is a delay, the same cannot be ground to quash the charge memo. Therefore, the Writ Appeal will have to be allowed.

WEB COPY

4.We do not find any reason to differ with the reasoning given by the learned Single Judge. The learned Single Judge, on facts, was pleased to hold that the appellants were aware of the fact that the respondent has completed X Standard. In fact, he has not stated that he was X Standard fail, even according to the appellants. The further fact that the respondent passed V Standard is not disputed. Therefore, it is a case of over qualification. Therefore, it is trite, it is for the employer to fix the qualification, which is also inclusive of the power to restrict the same to the exclusion of the higher qualification. On the fact of the case, we do not find any reason to interfere with the order of the learned Single Judge.

5.The respondent was working from 1997 onwards. Now, more than 23 years have elapsed. It is not a very high post as it merely demands a capacity to understand and write local language. Therefore, V Standard has been fixed as a qualification, which the respondent has got, admittedly. There is no material produced to show that the appellants were not aware of the fact that the respondent did not acquire higher qualification earlier. It is too trivial a matter to be interfered at this stage. The learned Single Judge has exercised his discretion upon considering the facts of the case. Hence, we are not inclined to interfere with the order of the learned Single Judge.

6.Accordingly, the Writ Appeal is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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 (Highways),
Karur Division,
Karur.

2.The Assistant Divisional Engineer (Highways),
Karur Sub-Division,
Karur.

+1 CC to M/s.GP (SR-303[F] dated 06/01/2021)

W.A. (MD) No.124 of 2018

05.01.2021

—
KVN(CO)
KK(20.01.2021) 3P 4C