



WEB COPY



W.P.Nos.30846 & 30847 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.30846 & 30847 of 2017
and W.M.P.Nos.33767, 33768, 33769 & 33770 of 2017

K.Kumar

...Petitioner
in W.P.No.30846 of 2017

B.Bubalasingam

...Petitioner
in W.P.No.30847 of 2017

Vs.

1.The State of Tamil Nadu rep. by its
Secretary to Government,
Highways and Minor Port (HK-3) Department,
Secretariat,
Chennai.

2.The Chief Engineer,
Highways Department,
Chepauk,
Chennai.

3.The Superintendent Engineer,
Highways, Construction and Maintenance,
Coimbatore Circle.

..Respondents
in both W.Ps



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Common Prayer : Writ Petitions filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 1st and 2nd respondents to prepare the panel for the promotion to the post of Junior Engineer by including the name of the petitioner and further directing the respondents 1 and 2 to promote the petitioner to the post of Junior Engineer.

For Petitioner : Mr.G.Prabhu Rajadurai
in both W.Ps

For Respondents : Mr.R.P.Murugan Raja
in both W.Ps Government Advocate

ORDER

The relief sought for in the present writ petitions is to direct the respondents 1 and 2 to prepare the panel for the promotion to the post of Junior Engineer by including the name of the petitioners and direct the respondents 1 and 2 to promote the petitioners to the post of Junior Engineer.

2.Promotion *per se* cannot be claimed as an absolute right. However, consideration for promotion is a fundamental right of an employee. In the event of



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taking an administrative decision of the competent authorities to fill up the promotional post, then the names of all the eligible persons who all are aspiring to secure promotions are to be considered for inclusion of their respective names in the panel to be prepared for grant of promotion. Thus, promotions are to be granted strictly in accordance with the rules in force. Mere availability of vacancies would not confer any right on the employees to claim promotion.

3.The relief as such sought for to direct the respondents to prepare a panel cannot be considered by this Court, since preparation of panel based on the available vacancy is the administrative prerogative of the competent authorities and such a policy decision is to be taken by the competent authorities considering various factors including administrative exigencies. Thus, creation of post, abolition of post, filling up of post are the administrative decisions to be taken and High Court cannot issue any direction to grant promotion or to fill up the promotional post by exercising the power of judicial review under Article 226 of the Constitution of India. But, in the event of taking such a decision to fill up promotional post, then the names of all the eligible persons are to be considered, including that of the petitioners, if he is otherwise qualified and eligible for promotion to the post of



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Junior Engineer. Thus, the relief as such sought for cannot be granted, however, the case of the writ petitioners is to be considered, whenever the process of promotion is undertaken by the competent authorities.

4. Accordingly, these writ petitions stand disposed of. No Costs.
Consequently, connected miscellaneous petitions are closed.

20.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
SSR

To

1. The State of Tamil Nadu rep. by its
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S.M.SUBRAMANIAM, J.

SSR

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