



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.7729 of 2022

WEB COPY

S.Vignesh

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Chennai-600 009.

2.The Director General,
Highways Department,
Guindy, Chennai-25.

3.The Joint Director(Administration)
Office of Director General,
Highways Department,
Guindy, Chennai-600 025.

4.The Chief Engineer,
Office of Highways Department (C&M)
Guindy, Chennai-600 025.

5.The Divisional Engineer,
Highways Department (C&M)
Thoothukudi Highways Division,
Thoothukudi-2.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent Nos.2 to 5 to consider the petitioner's representation dated 07.10.2021 seeking promotion to the post of Junior Drafting Officer(JDO), by drawing panel from the year 2017, towards filling up the 30% available to the feeder categories of the said post, including his services as Road Inspector Grade-II post and in accordance with Rule 15 of Tamil Nadu Highways Engineering Subordinate Services, prior to fill up of the remaining 70% vacancies in the said post by direct recruitment, in order to protect the promotees seniority, within a time limit fixed by this Court.

For Petitioner

: Mr.C.Dhanaseelan

For Respondents

: Mr.D.Sadiq Raja

Additional Government Pleader



ORDER

This writ petition is filed to direct the respondents to consider the representation submitted by the writ petitioner on 07.10.2021 seeking promotion to the post of Junior Drafting Officer (JDO), by drawing panel from the year 2017, towards filling up 30% available to the feeder categories of the said post, including his services as Road Inspector Grade-II post and in accordance with Rule 15 of Tamil Nadu Highways Engineering Subordinate Services, prior to fill up of the remaining 70% vacancies in the said post by direct recruitment, in order to protect the promotees seniority.

2.Promotion *per se* cannot be claimed as a matter of absolute right. Consideration for promotion is a fundamental right of an employee. All promotions are to be made strictly in accordance with the rules in force. After an administrative decision is taken to fill up the promotional posts, then the list of eligible persons fit for promotion must be considered for inclusion of their names in the panel and as per the seniority and thereafter, the promotions are to be considered by following the rules in force. The Hon'ble Supreme Court of India, in the case of **Union of India and Another-vs-Manpreet Singh Poonam**, reported in **CDJ 2022 SC 291**, held that promotion is not an absolute right. However, consideration is a right of an employee.

3.In the present case, the petitioner admits that none of his juniors were promoted and in the representation he has stated that he is fully qualified for the promotion to the post of Junior Drafting Officer and therefore, he should be promoted as per the rules in force. Even promotion *per se* is not a right, mere representation seeking promotion deserves no merit consideration. However, if any decision is taken by the competent authority to grant promotion in accordance with the rules, then the names of eligible persons, who all are aspiring to secure promotion to be considered including the petitioner. In the present case, in the representation, the petitioner has claimed promotion, which is not a right and in the absence of establishing his right, no writ needs to be entertained.

4.With these clarifications, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar ()

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/ /2022

Sub Assistant Registrar(CS)



1.The Principal Secretary to Government,
Highways and Minor Ports Department,
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Thoothukudi Highways Division,
Thoothukudi-2.

+1 CC to Mr.C.DHANASEELAN, Advocate (SR-20917[F] dated 25/04/2022)

+1 CC to M/s.SPL.GP (SR-21013[F] dated 25/04/2022)

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SS/16.05.2022 : 3P/8C