



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM

WEB COPY

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P. (MD)No.20412 of 2015**

R.Sathyamurthi

... Petitioner

Vs

The Principle Secretary to the Government,  
Highways and Minor Ports (HL1) Department,  
Secretariat,  
St.George Fort,  
Chennai - 600 009.

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records connected with the impugned order passed by the respondent in G.O. (D).No.47, Highways and Minor Ports (HL1) Department dated 27.02.2015 and quash the same.

For Petitioner : Mr.T.Cibichakraborty  
For Respondent : Mr.N.Ramesh Arumugam,  
Government Advocate (Civil Side).

\*\*\*\*\*

**O R D E R**

This Writ Petition has been filed to quash the impugned order dated 27.02.2015.

2. The brief facts of the case are that the petitioner was appointed as Assistant Engineer 5<sup>th</sup> category in Tamil Nadu Highways Engineering Service in Highway Department in the year 1998 by direct recruitment through Tamil Nadu Public Service Commission for the year 1993-1995. While the petitioner was working in Kovilpatti Highways Section during the year 1998-2003, the petitioner has supervised several road works using the bitumen supplied by the contractor. Originally, the bitumen was purchased by the Department under the direct control of Assistant Engineer. But, in G.O. Ms. No. 20 Highways Department dated 07.02.2000, orders were issued permitting the contractors to procure the bitumen. This has created a situation that the department could not monitor adulteration in the usage of bitumen, since the contractors stated storing the bitumen in hundreds of drums. Therefore the department had framed charges against almost all Assistant Engineers vide Government Letter dated 18.01.2007. Because of the pendency of this



charge memo, the petitioner was not able to get promotion. Hence the petitioner filed W.P.No.13626 of 2008 and the same was disposed on 22.10.2008 with a direction to complete the enquiry within two months. Again the petitioner filed another Writ Petition in W.P. (MD). No. 6799 of 2009 and this Court directed the second respondent to include the name of the petitioner in the panel for promotion to the post of Assistant Divisional Engineer and further take steps as indicated in the order passed in W.P.No.13626 of 2008, if there is no impediment stated in that order. In the meanwhile, the respondent has passed the punishment order by awarding punishment of stoppage of increment for a period of six months without cumulative effect in G.O.(D).No.241 Highway and Minor Ports (HL-1) Department dated 13.12.2010. The petitioner has challenged the Government Order in appeal before the respondent and the same is pending. The contention of the petitioner is in a similar circumstances, for the same set of charges, the departmental proceedings are dropped for several individuals. Especially in the Tirunelveli circle, 18 persons were charged for the similar allegations and the said charges were finally dropped and no punishments were imposed. But in the petitioner alone was punished. The petitioner filed another Writ Petition in W.P.(MD).No.1908 of 2014 and the same was disposed of on 25.08.2014 directing the respondent to dispose the appeal within eight weeks. Thereafter, the respondent passed the impugned order in G.O.(D)No.47 dated 27.02.2015. Aggrieved over the same, the present Writ Petition is filed.

3. The respondent had filed a counter affidavit stating that under G.O.Ms.No.20 Highways (HV2) Department dated 07.02.2000, the Government have formulated conditions for permitting the contractors themselves to supply bitumen for road works. But, the petitioner has failed to verify the genuineness of vouchers for the purchase of bitumen. For the above said delinquency, the disciplinary proceedings were initiated against the petitioner. The charge memo was issued and the petitioner submitted his explanation and the enquiry was conducted. Based on the enquiry report, the charges 1 and 3 are proved and charge 2 was not proved, the petitioner was imposed the punishment. The petitioner submitted a Revision Petition before the Government and the Government has obtained the views of Tamil Nadu Public Service Commission and thereafter confirmed the punishment. The contention of the respondent is that no punishment was imposed on other co-delinquents is wrong and it is unacceptable, because one S.Mayilerumperumal, S.Rajasekhara Pandiyan and F.Babu were imposed with the punishment of pension cut of Rs.500/- for six months and one Subbulakshmi, Junior (Assistant) Engineer was imposed with the punishment of stoppage of increment for three months without cumulative effect. Therefore, the petitioner has no ground to challenge the imposed punishment and hence prayed to dismiss the Writ Petition.



4. Heard Mr.T.Cibichakraborty, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondent.

WEB COPY

5. The petitioner has circulated an additional typed set wherein the Government had passed G.O.(D)No.56 Highways and Minor Ports (HL1) Department dated 12.03.2013 wherein the punishment was dropped based on the enquiry report for the delinquent namely, Jawahar Muthuraj. The petitioner has also submitted another Government order has passed G.O.(D).No.149 Highways Minor Port (HL1) Department dated 26.08.2009 wherein the respondents have dropped further action against one Mohana Sundara Nehru. Since action was dropped on other delinquents and the similarly placed persons, the petitioner prayed that the Government ought to have dropped the disciplinary proceedings against the petitioner.

6. The petitioner submitted that the conditions framed in supply of bitumen was subsequently changed and again the original procedure was followed. The charges were framed based on the earlier / old procedure. Therefore, on merits also, the petitioner claims that the basis of the charges itself is illegal.

7. Therefore, this Court of the considered view since other similarly placed persons, the respondents have dropped the action and the petitioner is also entitled to be treated on par with them. Moreover the basis of the charges are also on earlier / old procedure, this Court is of the considered view that the punishment is liable to be set aside. Hence, this Court set aside the imposed punishment and the respondent is directed to consider the promotion of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above said observations, this Writ Petition is allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

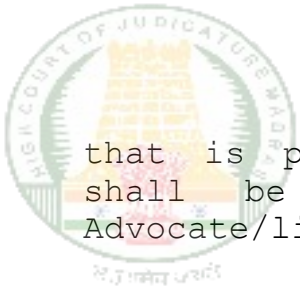
Sub Assistant Registrar(CS)

Nsr

**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

<https://hservices.ecourts.gov.in/hservices/>



that is presented is the correct copy,  
shall be the responsibility of the  
Advocate/litigant concerned.

WEB COPY

To  
The Principle Secretary to the Government,  
Highways and Minor Ports (HL1) Department,  
Secretariat,  
St.George Fort,  
Chennai - 600 009.

+1 CC to M/s.SPL GP ( SR-6436[F] dated 16/02/2022 )

+1 CC to M/s.T. CIBI CHAKRABORTHY, Advocate ( SR-6339[F] dated  
16/02/2022 )

Order made in  
**W.P. (MD) No.20412 of 2015**  
**15.02.2022**

nsn(CO)  
TR(16.03.2022) 4P 4C