



W.P.No.10573 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10573 of 2015

M.C.Selvam

... Petitioner

Vs.

- 1 The Director General,
Highways and Construction and Maintenance
Works Department, Chennai.
- 2 The Chief Engineer
Highways and Construction and Maintenance
Works Department, Chennai.
- 3 The Superintending Engineer
Highways and Construction and Maintenance
Works Department, Salem
- 4 The Divisional Engineer
Highways and Construction and Maintenance
Works Department, Krishnagiri.
- 5 T.Ramesh
- 6 N.Kumar
- 7 K.Vediappan

... Respondents



W.P.No.10573 of 2015

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari Mandamus, to call for the records in connection with Seniority List in Se.Mu.Ka.No.47/2014/P3-2, dated 15.07.2014 issued by the 4th respondent and quash the same and consequently include the petitioner name on the top of the Seniority List above the names of respondents 5 to 7.

For Petitioner : Mr.P.Ganesan

For Respondents : Ms.Akhila Rajendran,
Government Advocate
for R1 to R4

No appearance for R5 to R57

ORDER

This Writ Petition has been filed, challenging the seniority list issued by the 4th respondent dated 15.07.2014.

2. The petitioner was appointed along with the respondents 5 to 7 as Road worker temporarily as per the proceeding of the 4th respondent dated 31.10.1997. The qualification for the appointment of said post is the completion of 5th standard and those who have failed 10th standard are also eligible to be appointed as Road worker. The petitioner studied



W.P.No.10573 of 2015

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10th standard, but he was failed in the final examination. Therefore he was qualified for appointment of the Road Inspector. The petitioner was regularized and made permanent on 22.02.1999. Subsequently, the petitioner has passed 10th standard in March 2011. The next level of promotion is the Road Inspector Grade II. As per G.O.Ms.No.34 Highways (HK3) Department, dated 29.01.2008, 75% of the total vacancies in the post of Road Inspector Grade II to be filled by direct recruitment and the remaining 25 % of the posts to be filled by recruitment by transfer from the post of Road Worker, who have completed 5 years of service and passed SSLC final examination. The transfer from the post of Road worker in 3:1 ratio . The petitioner was qualified even in the year 2011 itself i.e., immediately after passing SSLC examination and eligible to be included in the panel list 2012, however, he has not been included. Even though the 4th respondent failed to prepare any promotion panel of the year 2013, in the year 2014, the 4th respondent prepared the panel list on 15.07.2014 and granted promotion to the respondents 5 to 7 as Road Inspector Grade II. According to the petitioner, they are ineligible persons since they are junior to the petitioner even at the time of appointment as Road workers and at the



W.P.No.10573 of 2015

time of preparation of panel for promotion. Hence, this Writ Petition.

3. The learned counsel for the petitioner submitted that even at the time of their appointment, the respondents 5 to 7 passed their SSLC and they suppressed the said fact and therefore they were facing disciplinary proceeding and they were imposed with the punishment of 5 years of stoppage of increment. At the time of facing punishment they were not qualified to be promoted as Road Inspector Grade II, when the petitioner was very much qualified in the year 2011 itself. However, the petitioner did not want to disturb the promotion of the respondents 5 to 7 and he would be satisfied if the notional promotion given to the petitioner from 2014.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record.

5. On perusal of the counter affidavit filed by the 4th respondent, it is seen that the respondents 5 and 6 had passed SSLC examination prior to their appointment. The 7th respondent had passed SSLC examination



W.P.No.10573 of 2015

during the year 2012. The petitioner had passed the SSLC examination in the year 2011. Hence, the seniority list has to be arrived based on the date of appointment in this case. At the time of appointment during 1997 one year training period was imparted. Therefore, the date of regularization taken into account for taking the seniority list. The date of passing SSLC examination is not the criteria in this regard. Admittedly, the 4th respondent failed to prepare any seniority panel for their promotion to the post of Road Inspector Grade II in the years 2011 to 2013. Immediately after G.O.Ms.No.34 Highways (HK3) Department, dated 29.01.2008 and the modified Government Order that is in in G.O.Ms.No.16, Highways Department, dated 21.01.2019. Admittedly, the petitioner is senior to the respondents 5 to 7 even at the time of their appointment and he was also a eligible person to be promoted as Road Inspector Grade II immediately after passing SSLC examination in the month of March 2011 .

6. In view of the above, the 4th respondent viz., The Divisional Engineer, Highways and Consequential and Maintenance Works Department, Krishnagiri, is directed to include the petitioner's name above the names of the respondents 5 to 7 for notional promotion to the



W.P.No.10573 of 2015

post of Road Inspector's Grade II and grant annual increment and all consequential benefits within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of.

No costs.

13.07.2023

Speaking Order/Non-Speaking Order

Index: Yes/No

vum

To

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Works Department, Chennai.



W.P.No.10573 of 2015

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G.K.ILANTHIRAIYAN,J.

vum



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W.P.No.10573 of 2015

W.P.No.10573 of 2015

13.07.2023