



W.P.No.14481 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:05.06.2023

Delivered on: 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.14481 of 2017

&

W.M.P.No.15709 of 2017

P.Panchatcharam

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep by its Principal Secretary
Highways and Rural Works Department
Secretariat, Fort St.George
Madras-600 009

2.The Managing Director
& High Ways Department
Chepauk
Madras-600 009

3.The Superintending Engineer
Highways (Construction and Maintenance Dept)
Villupuram

4.The Divisional Engineer
Highways (Construction and Maintenance Dept)
Perambalur

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 4th respondent in Ku.No.121/2017/A2 dated 06.02.2017 and to quash the same as illegal, incompetent and ultravires and consequently direct the respondents to extend the benefit of G.O.Ms.No.856 (Public Works Department) dated 01.06.1977, by notionally promoting the petitioner to the post of Road Inspector Grade-I, with effect from 01.01.1983 and consequently to revise the pay and other benefits including the pensionary benefits in the light of the order passed by this Court in W.P.(MD) No.7738 of 2008 and batch of cases dated 12.12.2012.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.T.M.Rajangam, Govt. Advocate

ORDER

The Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus calling for the records in Ku.No.121/2017/A2 dated 06.02.2017 on the file of the 4th respondent and to quash the same as illegal and ultravires and consequently direct the respondents to extend the benefit of G.O.Ms.No.856, Public Works Department dated 01.06.1977 by notionally promoting the petitioner to the post of Road Inspector Grade-I with



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effect from 01.01.1983 and consequently revise the pay and other benefits including pensionary benefits, in the light of the order passed in W.P.No.7738 of 2008 dated 12.12.2012.

2. The case of the Writ Petitioner is that he joined service as a Road Inspector-Grade-II on 02.12.1971, and that his services were regularized with effect from 01.01.1978. Government brought in G.O.Ms.No.856 dated 01.06.1977 in terms of which experience for promotion to the post of Road Inspector Grade-I was reduced from 10 years to 5 years. The petitioner completed 5 years on 01.01.1983 and hence he was eligible for being promoted to the post of Road Inspector-Grade I. However, the petitioner was given promotion only on 01.01.1988. Petitioner retired from service on 30.06.2008. Despite series of representations given by the petitioner seeking notional promotion and consequential monetary benefits, there has been no effective action taken by the respondents. Hence, the petitioner has filed the present Writ Petition.



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3. The 4th respondent has filed a counter and stated that in so far as the subject matter, the State had preferred Writ Appeals and therefore in such circumstances as a policy decision the request of the petitioner was rejected in and by the impugned order. Subsequently, the 4th respondent has also filed an additional counter stating that the Writ Petition is liable to be dismissed on the ground of laches and given that the conditions for relaxing the 10 years period of service to 5 years were merit, ability and seniority, the petitioner could not, at this length of time claim the notional benefits.

4. The counsel for the petitioner contended that the conditions of merit, ability and seniority were no longer available for consideration given that the petitioner has already retired and he is only seeking notional benefits. The counsel for the petitioner also invited the attention of this Court to various decisions which are infact enclosed along with the typedset of papers also.

5. In W.P.No.4251 of 2016, the petitioner herein filed the said Writ Petition seeking a Mandamus directing the respondents to extend the benefit



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of G.O.Ms.No.856 to him by notionally promoting him to the post of Road Inspector Grade-I with effect from 01.01.1983. The said Writ Petition was disposed of directing the petitioner to give a fresh representation to the 3rd respondent which was directed to be thereafter disposed of in the light of order passed in batch of Writ Petitions in W.P.Nos.7738 to 7749 of 2008 dated 12.12.2012.

6. In Writ Appeal Nos.262 and 273 of 2016, the Division Bench of this Court in appeals challenging the order in W.P.Nos.7738 to 7749 of 2008 referred supra, recorded the submissions that the Appeals had become infructuous, since the Government has decided to pay the arrears of salary to the respondents at the earliest. Thus, it is clear that the respondents themselves have taken a policy decision to comply with the orders of the learned Single Judge in W.P.Nos.7738 to 7749 of 2008 dated 12.12.2012 and a representation was also made before the Division Bench of this Court and recording the said submission, the Writ Appeals were disposed of. It is not contended by the respondents that the petitioner does not fall within the same



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category as that of the Writ Petitioners in the batch of cases. Therefore, in the light of the decision of the Government to pay benefits to several other similarly placed employees, there is no reason why the petitioner should be left out and denied the benefits.

7. The counsel for the petitioner also invited the attention of this Court to the G.O.Ms.No.56 dated 16.03.2018. In the said G.O, pursuant to the order passed in the batch of Writ Petitions several other Road Inspectors have been sanctioned monetary benefits. The case of the petitioner cannot be treated as an exception and to be denied the benefits which had been given to similarly placed Road Inspectors. Even though the impugned order was passed rejecting the petitioner's claim way back in 2017, there have been subsequent developments which watered down the very effect of the impugned order. As already noted herein above, the respondents themselves have decided to pay the benefits to several other similarly placed Road Inspectors and necessary G.O.Ms.No.56 has also been passed in that regard. In this factual background, the Writ Petitioner is entitled for relief from this



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Court.

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8. In fine, the Writ Petition is allowed. The respondents shall disburse the amount payable to the Writ Petitioner within a period 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2023.

Internet:Yes

Index:Yes/No

Speaking order Yes/No

Neutral Citation:Yes/No

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To

1.The Principal Secretary
State of Tamil Nadu
Highways and Rural Works Department
Secretariat, Fort St.George
Madras-600 009

2.The Managing Director
& High Ways Department
Chepauk
Madras-600 009

3.The Superintending Engineer
Highways (Construction and Maintenance Dept)
Villupuram

4.The Divisional Engineer

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Highways (Construction and Maintenance Dept)
Perambalur

P.B.BALAJI, J.,
kpr

Pre-delivery order in
W.P.No.14481 of 2017

09.06.2023