



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.24229 of 2017
and
W.M.P.No.25604 of 2017

M. Mariyappan

.. Petitioner

Vs.

1. Director General,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai – 600 025.

2. Superintending Engineer,
Highways Department,
Salem, Salem District.

3. Divisional Engineer,
Highways Department,
Dharmapuri Division,
Dharmapuri District.

.. Respondents

Prayer: This 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 order passed by the 1st respondent in his proceedings No.14193/Nir.4(1)/2015 dated 13.02.2017 and to quash the



same and direct the respondents to promote the petitioner as Grade-II Road Inspector from the date on which his juniors were promoted on the basis of the panel drawn for the year 2013 – 2014 and confer all the consequential benefits.

For Petitioner	.. Mr. V. Sivalingam For M/s.C.S.Associates
For Respondents	.. Mr. R. Neethi Perumal, Govt. Advocate

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus seeking interference with an order passed by the 1st respondent, Director General, Highways Department, Chennai in Proceedings No14193/Nir.4(1)/2015 dated 13.02.2017 and direct the respondents to promote the petitioner as Road Inspector Grade – II from the date on which his juniors were promoted on the basis of the panel drawn for the years 2013 – 2014 and confer all consequential benefits.

2. The petitioner had joined as Road Worker on 07.11.1997 in the office of the 3rd respondent / Divisional Engineer, Highways Department, Dharmapuri Division, Dharmapuri District. His services were also



regularized as Road Worker. The next avenue of promotion is to the post the Road Inspector Grade – II. Originally, a seniority list was drawn, and then a panel for promotion was also drawn and promotion was also given. However, the name of the petitioner was not included in the panel of the year 2008, since did not pass his SSLC. Subsequently, the petitioner had undergone the Pre-Foundation Programme in Annamalai University and had completed the same in May – 2012. Necessary certificate in that regard had been enclosed as document to the writ petition. The respondents had not considered that particular qualification of the petitioner, since they were of the opinion that it was not equivalent to 10th standard.

3. It is the grievance of the petitioner that his juniors who had been appointed subsequent to him were also given promotion in the year 2014, but his name was overlooked for the above reason.

4. On the side of the respondents, it had been contended that the juniors had completed their 10th standard in regular school and therefore, they had been considered for promotion and since the petitioner had only completed a Pre-Foundation Course in Annamalai University, which



according to the respondents was not equivalent to 10th standard, his name was not considered for promotion.

5. The very same issue had been addressed by a Division Bench of this Court in a batch of Writ Appeals in *W.A.Nos.497 to 500 of 2022, P. Thavam and others Vs. The State of Tamil Nadu and others*, dated **05.07.2022**. The issue therein was also about the applicability and recognition of the Pre-Foundation Course of Annamalai University.

6. Originally, the Government had introduced G.O.Ms.No.107, Personnel and Administrative Reforms Department, dated 18.08.2009, wherein, on the basis of the Equivalency Committee report, it was held that the Pre-Foundation Course was not equivalent to 10th standard. A cut-off date was therefore given that the candidates who had undergone the Pre-Foundation Course prior to 18.08.2009 would be recognized, but not those who had completed the same after 18.09.2009.

7. The petitioner herein had completed the course in May 2012. In the Division Bench Judgment, however, a further observation had been



made about G.O.Ms.No.144, Personnel and Administrative Reforms (M)

Department dated 20.11.2017, wherein, it had been held that the Pre-Foundation course awarded by various Universities cannot be recognized as equivalent to 10th standard or Higher Secondary School. In that contention, the Division Bench had therefore held that the date should now be pushed to the date of G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department dated 20.11.2017 and had therefore held that Pre-Foundation courses obtained till 20.11.2017 could be recognized and those had who obtained that certificate after 20.11.2017 cannot get the benefit of such recognition. The reasoning of the Division Bench was given in paragraph Nos.24, 25, 26, 27 and 28. They are as follows:

“24. This Court is of the considered opinion that the government had recognized the pre-foundation course vide G.O.Ms.No.528, P and AR Department, dated 18.05.1985 and the said G.O. was in existence from 1985 onwards, subsequently there was a challenge to the open university degree and the High Court has held open university degree is not valid and pre-foundation course as not valid. When it was considered valid for the past twenty four years, then it was declared as invalid, the persons who are affected from this shift / change of qualification ought to be protected. As



rightly pointed out by the appellants, the Government has taken eight long years after issuance of G.O.Ms.No.107, Personnel and Administrative Reforms Department, dated 18.08.2009, to issue G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017. It is only in G.O.Ms.No. 144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 the government has declared that the pre foundation course is not recognized equivalent to the pre-foundation course. The G.O.Ms. No. 107, Personnel and Administrative Reforms Department, dated 18.08.2009, has only accepted the recommendations of the Equivalence Committee. As rightly pointed out by the learned Counsel appearing for the appellants, the government has passed G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 wherein it has been categorically held that the pre-foundation course as invalid. If it is so, then the date of issuance of the said G.O. Ms. No. 144 ought to be held as the cutoff date. Moreover, the prefoundation course was closed down in the year 2012. In short the pre-foundation course was recognized in the year 1985, then in the year 2009 it was held by High Court that pre-foundation course is not equivalent, then equivalence committee has reported it is not equivalent, the government accepted the report in 2009 and finally it was declared in the year 2017.



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Hence, the mischief of invalidity has been eradicated in phased manner. Therefore, this Court is of the considered opinion that the cutoff date, is the date of issuance of G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 i.e. 20.11.2017.

25. The appellants relied on the Honourable Supreme Court judgments wherein it has been held that the employee is entitled to atleast one promotion in the entire career and hence the appellants are entitled to get an opportunity of one promotion in their entire career. The appellants submitted that the respondents conferred the promotion on the appellants based on their pre-foundation course qualification and hence, based on the equity, the appellants are entitled to the said promotion. It is also submitted that all the appellants are above the age of 50 and at this stage, if they are depromoted that would be a humiliation and they will be forced to work under their juniors which would affect their status in the family and in the Society. This Court is of the considered opinion that the appellants were conferred promotion in the year 2013 and 2014 and the appellants have worked for more than five years in the promoted post. At this stage, the appellants cannot be depromoted and based on the equity, the appellants ought to be allowed to continue in the promoted post. Therefore this Court is of the considered opinion that based on equity the



appellants are entitled to relief.

26. *Since all the appellants had completed the pre-foundation course prior to 20.11.2017, this Court is of the considered opinion that the appellants are entitled to promotion. After dismissal of the writ petitions, the respondents have reverted the appellants to their original post of Gang Mazdoor. Since writ appeals are allowed the appellants are entitled to promotion. Therefore, the respondents are directed to confer the promotion to all the appellants. The impugned order challenged in the Writ Appeals are set aside and consequently the impugned orders of de-promotion challenged in the Writ Petitions are set aside. The respondents are directed to implement the judgment within a period of four weeks from the date of receipt of a copy of this judgment.*

27. *With the above observations, the Writ Appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.*

28. *Before departing with this order, this Court is of the considered opinion that the appellants have taken earnest efforts to qualify themselves, after they had missed the opportunity to do 10th standard or 12th standard due to various family circumstances. The government should come forward to formulate a scheme to educate people wherever the opportunity was missed. However, the scheme should be*



without affecting the rights of the persons who had completed in the regular stream.”

8. The above reasonings directly applies to the case of the petitioner herein. The petitioner had qualified in Pre-Foundation Course in Annamalai University in May – 2012. It should be considered as equivalent to 10th standard, by the respondents, consequent to the judgment of Division Bench. Hence, the respondents are directed to issue necessary proceedings promoting the petitioner as Road Inspector Grade-II with all attendant benefits which would have accrued to the petitioner had he been promoted before his immediate junior. Necessary proceedings to be issued within a period of sixteen weeks from the date of receipt of a copy of this order.

9. With the above observations, this Writ Petition stands allowed. Consequently, connected Writ Miscellaneous Petition is closed.

30.08.2023

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Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No



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Highways Department,
76, Sardar Patel Road,
Guindy, Chennai – 600 025.
2. Superintending Engineer,
Highways Department,
Salem, Salem District.
3. Divisional Engineer,
Highways Department,
Dharmapuri Division,
Dharmapuri District.



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11

C.V.KARTHIKEYAN,J.

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