



W.P.(MD).No.18117 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.18117 of 2023

N.Jagadeesan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by it's Additional Chief Secretary / Secretary,
Highways and Minor Parts Department,
Fort St. George,
Chennai-600 009.

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

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai-03.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, seeking for a direction to the respondent herein to consider the representation, dated 04.07.2023 and issue promotion orders as per the G.O(Ms)No.61, Highways and Minor Port (HK1) Department, dated 23.03.2020 to the eligible persons including the petitioner.



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For Petitioner : Mr.S.Karthkei Balan
For R-1 & R-2 : Mr.M.Prakash
Additional Government Pleader
For R-3 : Mr.J.Anand Kumar
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondents herein to consider the representation, dated 04.07.2023 and issue promotion orders as per the G.O(Ms)No.61, Highways and Minor Port (HK1) Department, dated 23.03.2020 to the eligible persons including the petitioner.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as an Assistant Draughtsman on 29.10.1999. Thereafter, he was promoted as Junior Draughting Officer on 23.12.2004 and later promoted as Junior Engineer on 07.10.2015 and is



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continuing as Junior Engineer till date. The next avenue of promotion for the petitioner is Assistant Divisional Engineer and as per Rule 9 and 10 of the Special Rules for the Tamil Nadu Highways Engineering Service, the petitioner is fully eligible to be appointed as an Assistant Divisional Engineer, whenever vacancy arises. Certain Junior Engineers, namely, Indhumathi, Thirumalai Dhathachari and others were promoted as Assistant Divisional Engineer vide G.O(Ms)No.61, Highways and Minor Port (HK1) Department, dated 23.03.2020, who are similarly situated like that of the petitioner. The estimated vacancies of Assistant Divisional Engineer panel for the year 2018-2019 has been arrived at as 129 posts by the respondent. Then the said post by following the ratio of 3:1, 96 posts for Assistant Engineers and 33 posts for Junior Engineers were ear marked for the said panel year of 2018-2019 and a cutoff date (crucial date) was fixed on 15.07.2017.

4. The petitioner is also eligible to be appointed as Assistant Divisional Engineer on 15.07.2017 like the similarly placed persons in the light of G.O(Ms)No.61, dated 23.03.2020. Though the petitioner is entitled to claim the benefit along with the similarly situated persons, the case of the petitioner is kept pending despite several remainders made by him. The petitioner has made



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various representations on 07.07.2021 and last of such representation was given on 04.07.2023 for which, there is no response. Hence, this writ petition came to be filed.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

6. Hence, this Court is inclined to direct the respondents to consider the petitioner's representation, dated 04.07.2023 and deal with the promotion with respect to the petitioner alone in the light of G.O(Ms)No.61, Highways and Minor Port (HK1) Department, dated 23.03.2023 within a period of twelve (12) weeks from the date of receipt of a copy of this order in accordance with law.



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7. This writ petition stands disposed of. There shall be no order as to costs.

27.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Additional Chief Secretary / Secretary,
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- 2.The Director General,
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L.VICTORIA GOWRI, J.

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