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W.A.Nos.3095 & 3101 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos.3095 & 3101 of 2021

1. A.Thiruvengatamoorthy
2. M.Sankar
3. V.Paramasivam
4. M.Panchavarnam
5. S.Kathiravan
6. C.Kannan
7. R.Vedamoorthi

Appellants
.. in both W.As

Vs.

1. P.Vadivel
2. The Government of Tamil Nadu
Rep. by its Secretary
Public Works Department
Fort St. George, Chennai – 600 009.
3. The Chief Engineer (General)
Public Works Department
PWD Campus, Chepauk
Chennai – 600 005.
4. M.Palaniappan
5. M.Logaguru
6. K.Subbiah

[R6 impleaded vide order dated
06.06.2024 in C.M.P.No.3031 of 2022
in W.A.No.3095 of 2021.]

Respondents in
.. W.A.No.3095 of 2021



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1. The Government of Tamil Nadu
Rep. by its Secretary
Public Works Department
Fort St. George, Chennai – 600 009.

2. The Engineer-in-Chief, WRO & Chief Engineer (General)
Public Works Department
Chepauk, Chennai – 600 005.

3. R.Venkatachalam
4. P.Rajendra Prasad
5. S.Sivakumar
6. A.Balamurugan
7. R.Thangaraj
8. C.Ayyasamy
9. A.Srinivasan
10. S.Suganya
11. S.Poorani
12. Samynathan
13. M.Vasanth
14. S.Madhavi
15. T.Devaraj
16. C.Balamurugan
17. P.Kumaran
18. T.Suganthi
19. K.Jayachitra
20. K.Subbiah
21. A.Bhuvaneswari
22. M.Vijayalakshmi
23. M.Palaniappan
24. M.Logaguru

Respondents in
.. W.A.No.3101 of 2021

Prayer in W.A.No.3095 of 2021: Appeal filed under Clause 15 of the Letters Patent against the order in W.P.No.24354 of 2010 dated 14.11.2019; and

Prayer in W.A.No.3101 of 2021: Appeal filed under Clause 15 of the Letters Patent against the order in W.P.(MD)No.985 of 2010 dated 14.11.2019.



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For Appellants : Mr.P.Rajendran

For Respondents : Mr.V.Janarthanan
for R1 in W.A.No.3095 of 2021

Mr.T.Chezhiyan
Additional Government Pleader
for R2 & R3
in W.A.No.3095 of 2021 and
for R1 & R2
in W.A.No.3101 of 2021

Mr.N.Subramaniyan
for R4 to R6
in W.A.No.3095 of 2021 and
for R3 to R24
in W.A.No.3101 of 2021

COMMON JUDGMENT

(Judgment of the Court was made by S.M.SUBRAMANIAM, J.)

These writ appeals have been instituted against the common order dated 14.11.2019 in W.P.No.24354 of 2010 and W.P.(MD)No.985 of 2010.

2. W.P.(MD)No.985 of 2010 was filed seeking directions to implement the Government Letter No.Ms/296/B2/08 dated 29.09.2008. W.P.No.24354 of 2010 was instituted by *P.Vadivel*, the first respondent in W.A.No.3095 of 2021, challenging the said Government Letter dated 29.09.2008. Thus, both these writ petitions were taken up together and the common order has been passed by the Writ Court, against which these two writ appeals have been filed.



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3. The impugned Government Letter dated 29.09.2008 is all about re-designation of eleven Junior Engineers as Assistant Engineers, on acquiring B.E. Degree qualification from the year 1997 onwards.

4.1. *Mr.P.Rajendran*, learned counsel appearing for the appellants would mainly contend that the Tamil Nadu Engineering Sub-Ordinate Service Rules was in force till 11.09.1985. As far as the Post of Assistant Engineers is concerned, the Tamil Nadu Engineering Sub-Ordinate Service Rules stipulates that "*Junior Engineers possessing a degree in Engineering recognised by the Government of Tamil Nadu as sufficient qualification for appointment as Junior Engineer or the diploma of the College of Engineering, Guindy, shall be designated as Assistant Engineers*". Therefore, prior to the date of 11.09.1985, the Junior Engineers, on acquiring the B.E. Degree qualification, shall be re-designated as Assistant Engineers under the Tamil Nadu Engineering Sub-Ordinate Service Rules.

4.2. With effect from 11.09.1985, the post of Assistant Engineers was brought under the Tamil Nadu Engineering Service



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Rules. Therefore, the post of Assistant Engineers was deleted from the Tamil Nadu Engineering Sub-Ordinate Service Rules.

4.3. Rule 2(e) of the Tamil Nadu Engineering Service Rules expressly indicates that the Junior Engineers, so re-designated as Assistant Engineers, shall be assigned rank below the list of Assistant Engineers in the list last communicated. Therefore, the Tamil Nadu Engineering Service Rules also recognizes re-designation of Junior Engineers as Assistant Engineers on acquiring B.E. Degree qualification. Therefore, there is no infirmity in respect of the Government Letter dated 29.09.2008, re-designating eleven Junior Engineers as Assistant Engineers on acquiring B.E. Degree qualification.

4.4. In support of the said contention, *Mr.P.Rajendran* would rely upon the judgment of the Supreme Court of India in the case of ***Association of Tamil Nadu Highways Engineers vs. K.Sriramachandran (D) & Ors.¹***, wherein, the Supreme Court of India considered re-designation of Supervisors as Junior Engineers, which is to be equated with Junior Engineers as Assistant Engineers.

¹ Civil Appeal No.7794 of 1997; dated 20.02.2002



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4.5. The facts in the Judgment delivered in the case of ***B.Thirumal vs. Ananda Sivakumar and Ors.***² are inapplicable to the present case, since it was all about the gap provided between the re-designated Assistant Engineers and the directly recruited Assistant Engineers.

5.1. *Mr.N.Subramaniyan*, learned counsel appearing for the contesting respondents would oppose by stating that the Rules have been misinterpreted by the appellants. Admittedly, the post of Assistant Engineers was originally under the Tamil Nadu Engineering Sub-Ordinate Service Rules. As per the said Tamil Nadu Engineering Sub-Ordinate Service Rules, the Junior Engineers possessing B.E. Degree qualification is eligible for re-designation as Assistant Engineers. The said position remained in force till such time the post of Assistant Engineers was incorporated under the Tamil Nadu Engineering Service Rules on 11.09.1985.

5.2. After 11.09.1985, re-designation of Junior Engineers as Assistant Engineers are impermissible, since the method of recruitment to the post of Assistant Engineers has been specifically

² *Civil Appeal Nos.10660-10662 of 2013; dated 27.11.2013*



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stipulated under the Tamil Nadu Engineering Service Rules. The Rule position after 11.09.1985 underwent changes on account of the incorporation of the post of Assistant Engineer under the Tamil Nadu Engineering Service Rules. Thus, the impugned Government Letter, re-designating the Junior Engineers as Assistant Engineers vide Letter dated 29.09.2008, was rightly quashed by the Writ Court.

5.3. *Mr.N.Subramaniyan* would rely upon the judgment of the Apex Court in the case of **B.Thirumal** (*supra*).

6.1. We are not inclined to go into the facts, since they are distinguishable. The facts are not identical. In the present writ appeals, short question raised would be whether the Junior Engineers, on acquiring B.E. Degree qualification, can be re-designated as Assistant Engineers under the Tamil Nadu Engineering Service Rules or not.

6.2. Admittedly, the post of Assistant Engineers was removed from the provisions of Tamil Nadu Engineering Sub-Ordinate Service Rules and was inserted under the provisions of the Tamil Nadu Engineering Service Rules with effect from 11.09.1985.



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6.3. Let us consider Rule 2(a)(5) of the Tamil Nadu Engineering Service Rules, which stipulates the method of recruitment to the post of Assistant Engineers. Accordingly, the post of Assistant Engineers can be filled up through direct recruitment or recruitment by transfer from Junior Engineers, Overseers, Special Grade Draughting Officer or Civil Draughtsman of Tamil Nadu Engineering Subordinate Service.

6.4. Rule 2(e) reads as under:

"(e) The candidates appointed as Assistant Engineers by recruitment by transfer on acquiring degree qualification shall be assigned rank below the last Assistant Engineer in the list of candidates selected by the Tamil Nadu Public Service Commission in that calendar year. If no selection has been made by Tamil Nadu Public Service Commission to the category of Assistant Engineers in the calendar year, the Junior Engineer so re-designated as Assistant Engineer shall be assigned rank below the last Assistant Engineer in the list last communicated. For this purpose, the date of communication of the list by Tamil Nadu Public Service Commission shall be the criterion to decide the calendar year to which the list belongs. The concurrence of the Tamil Nadu Public Service Commission shall not be necessary for such an appointment."

6.5. Rule 2 (a)(5), stipulates method of recruitment to the



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post of Assistant Engineers by way of direct recruitment or recruitment by transfer from Junior Engineer. Rule 2(e) is all about fixation of seniority amongst the Assistant Engineers, recruited by transfer and Assistant Engineers appointed by way of re-designation under the Tamil Nadu Engineering Sub-Ordinate Rules prior to 11.09.1985.

6.6. At the outset, Rule 2(e) speaks about fixation of seniority amongst the Assistant Engineers appointed through various methods, i.e., by way of transfer of service or by way of re-designation under the Tamil Nadu Engineering Sub-Ordinate Service Rules. Therefore, the argument advanced by *Mr.P.Rajendran*, that the method of appointment to the post of Assistant Engineers by way of re-designation is permissible under Rule 2(e), is incorrect and stands rejected.

6.7. Rule 2(e) is all about fixation of seniority amongst the Assistant Engineers appointed through various methods. The word “re-designation” in Rule 2(e) cannot be interpreted so as to form an opinion that the Tamil Nadu Engineering Service Rules also provides for method of recruitment by way of re-designation. Such an interpretation is beyond the scope of Rule 2(e), since the method of



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recruitment has been unambiguously stipulated under Rule 2 (a)(5) of the Tamil Nadu Engineering Service Rules.

6.8. Since the Rule position is clear and there is no possibility of two interpretations with reference to the appointment of Junior Engineers by way of re-designation to the post of Assistant Engineers on acquiring B.E. Degree qualification, the findings and the decision taken by the Writ Court is in consonance with the provisions of the Rules and there is no infirmity, as such. After 11.09.1985, no Junior Engineers, on acquiring B.E. Degree qualification, could be re-designated as Assistant Engineers, but to be appointed as Assistant Engineers by way of transfer under Rule 2(a)(5) of the Tamil Nadu Engineering Service rules.

7. Accordingly, these writ appeals stand dismissed. There shall be no order as to costs.

(S.M.S., J.) (C.K., J)
29.07.2024

Neutral Citation:Yes/No

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To:

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1. The Secretary
The Government of Tamil Nadu
Public Works Department
Fort St. George, Chennai – 600 009.
2. The Engineer-in-Chief, WRO & Chief Engineer (General)
Public Works Department
Chepauk, Chennai – 600 005.



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S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

(drm)

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