



W.P.Nos.9061, 8991, 9672, 10396 & 13838 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2024

PRONOUNCED ON : 13.12.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.Nos.9061, 8991, 9672, 10396 & 13838 of 2021
and

W.M.P.Nos.9521, 9602, 10248 & 10986 & 14708 of 2021

In W.P.No.9061 of 2021

1.A.Nambi Venkatesh

2.S.Prithivirajan

3.G.Ramachandran

.... Petitioners

Vs.

1.Metropolitan Transport Corporation Ltd.,
rep. by its Managing Director,
Pallavan Salai,
Chennai-600 002.

2.The Government of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat, Chennai-600 009.

3.The Assistant Commissioner of Police,
The Investigation Officer,
CCB Cr.No.441/2015,



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Central Crime Branch,
Job Racket Wing,
(Velaivaippu Mosadi Thaduppu Pirivu),
Veperi, Chennai-600 007.

- 4.S.Ramesh
- 5.R.Naresh Kumar
- 6.K.Gowthaman
- 7.S.Saravanan
- 8.R.Vijayaragavan
- 9.S.Arunkumar
- 10.C.Perumal
- 11.V.Gangadhran
- 12.G.Shanmugasundram
- 13.M.Rajini
- 14.A.Saravanakumar
- 15.S.Ramesh
- 16.M.Rajasekaran
- 17.A.Ashok Kumar
- 18.M.Sathish
- 19.P.Senthilkumar
- 20.M.Sudershan
- 21.R.Subash



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22.V.Naveen Kumar

23.G.Balaji

24.M.Anand

25.P.Manimaran

26.D.Aashok

27.N.Thiyagu

28.R.Rajaam

29.K.Saravanan

30.B.Vanchi Raja Thilipan

31.R.S.Prabakaran

32.G.Nagarajan

33.S.Manikandan

34.H.Mani

35.S.Kathir

36.M.Magesh

[R4 to R36 are impleaded as per order dated
25.04.2024 in WMP.17575/2021
in WP.9061/2021 by MSKJ]

... Respondents

Prayer:-Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Declaration, declaring the selection of candidates and their appointments as Junior Engineers under the first respondent pursuant to the Recruitment Notice 2014 vide Advertisement No.01-



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05/MTC/2014 dated 02.11.2014 issued by the first respondent as illegal, vitiated by corrupt means and unconstitutional, void ab initio and consequently to direct the first respondent to redraw the selection list based on the true marks scored by the candidates in the selection and consider the case of the petitioners for such selection accordingly and consequently to make appointments afresh replacing the already appointed candidates as Junior Engineers and further to direct the second respondent to issue appropriate orders directing all the recruitment authorities to publish in the advertisement itself for any selection for making public appointments the procedure to be followed in the selection and to publish the results of any examination either oral or written conducted for such selection disclosing the name, age, community and marks scored in each examination by all the participants in the examinations conducted for the selection within a time frame as may be fixed by this Court and also issue appropriate direction to the first respondent to pay adequate compensation to the petitioners as may be fixed by this Court for their non-selection as Junior Engineers illegally by the first respondent.

In W.P.No.8991 of 2021

1.P.Dharmaraj

2.M.Govindharasu

.... Petitioners

Vs.

1.Metropolitan Transport Corporation Ltd.,
rep. by its Managing Director,
Pallavan Salai,
Chennai-600 002.



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2.The Government of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat, Chennai-600 009.

3.The Assistant Commissioner of Police,
The Investigation Officer,
CCB Cr.No.441/2015,
Central Crime Branch,
Job Racket Wing,
(Velaivaippu Mosadi Thaduppu Pirivu),
Veperi, Chennai-600 007.

... Respondents

Prayer:-Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration, declaring the selection of candidates and their appointments as Junior Engineers under the first respondent pursuant to the Recruitment Notice 2014 vide Advertisement No.01-05/MTC/2014 dated 02.11.2014 issued by the first respondent as illegal, vitiated by corrupt means and unconstitutional, void ab initio and consequently to direct the first respondent to redraw the selection list based on the true marks scored by the candidates in the selection and consider the case of the petitioners for such selection accordingly and consequently to make appointments afresh replacing the already appointed candidates as Junior Engineers and further to direct the second respondent to issue appropriate orders directing all the recruitment authorities to publish in the advertisement itself for any selection for making public appointments the procedure to be followed in the selection and to publish the results of any examination either oral or written conducted for such selection disclosing the name, age, community and marks scored in each examination by all the participants in the examinations conducted for the selection within a



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time frame as may be fixed by this Court and also issue appropriate direction to the first respondent to pay adequate compensation to the petitioners as may be fixed by this Court for their non-selection as Junior Engineers illegally by the first respondent.

In W.P.No.10396 of 2021

1.K.Pughazhendi

2.L.Purushothaman

.... Petitioners

Vs.

1.Metropolitan Transport Corporation Ltd.,
rep. by its Managing Director,
Pallavan Salai,
Chennai-600 002.

2.The Government of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat, Chennai-600 009.

3.The Assistant Commissioner of Police,
The Investigation Officer,
CCB Cr.No.441/2015,
Central Crime Branch,
Job Racket Wing,
(Velaivaippu Mosadi Thaduppu Pirivu),
Veperi, Chennai-600 007.

... Respondents

Prayer:-Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration, declaring the selection of candidates and their appointments as Junior Engineers under the first respondent pursuant to the Recruitment Notice 2014 vide Advertisement No.01-



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05/MTC/2014 dated 02.11.2014 issued by the first respondent as illegal, vitiated by corrupt means and unconstitutional, void ab initio and consequently to direct the first respondent to redraw the selection list based on the true marks scored by the candidates in the selection and consider the case of the petitioners for such selection accordingly and consequently to make appointments afresh replacing the already appointed candidates as Junior Engineers and further to direct the second respondent to issue appropriate orders directing all the recruitment authorities to publish in the advertisement itself for any selection for making public appointments the procedure to be followed in the selection and to publish the results of any examination either oral or written conducted for such selection disclosing the name, age, community and marks scored in each examination by all the participants in the examinations conducted for the selection within a time frame as may be fixed by this Court and also issue appropriate direction to the first respondent to pay adequate compensation to the petitioners as may be fixed by this Court for their non-selection as Junior Engineers illegally by the first respondent.

In W.P.No.9672 of 2021

1.A.Jafarulla

2.C.Jenin Jayaraj

3.K.Vidhya Kumar

.... Petitioners

Vs.

1.Metropolitan Transport Corporation Ltd.,



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rep. by its Managing Director,
Pallavan Salai,
Chennai-600 002.

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2.The Government of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat, Chennai-600 009.

3.The Assistant Commissioner of Police,
The Investigation Officer,
CCB Cr.No.441/2015,
Central Crime Branch,
Job Racket Wing,
(Velaivaippu Mosadi Thaduppu Pirivu),
Veperi, Chennai-600 007.

... Respondents

Prayer:-Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration, declaring the selection of candidates and their appointments as Junior Engineers under the first respondent pursuant to the Recruitment Notice 2014 vide Advertisement No.01-05/MTC/2014 dated 02.11.2014 issued by the first respondent as illegal, vitiated by corrupt means and unconstitutional, void ab initio and consequently to direct the first respondent to redraw the selection list based on the true marks scored by the candidates in the selection and consider the case of the petitioners for such selection accordingly and consequently to make appointments afresh replacing the already appointed candidates as Junior Engineers and further to direct the second respondent to issue appropriate orders directing all the recruitment authorities to publish in the advertisement itself for any selection for making public appointments the procedure to be followed in the selection and to publish the results of any examination either oral or written conducted for such selection disclosing the name, age,



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community and marks scored in each examination by all the participants in the examinations conducted for the selection within a time frame as may be fixed by this Court and also issue appropriate direction to the first respondent to pay adequate compensation to the petitioners as may be fixed by this Court for their non-selection as Junior Engineers illegally by the first respondent.

In W.P.No.13838 of 2021

K.Manoj Kumar

.... Petitioner

Vs.

1.Metropolitan Transport Corporation Ltd.,
rep. by its Managing Director,
Pallavan Salai,
Chennai-600 002.

2.The Government of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat, Chennai-600 009.

3.The Assistant Commissioner of Police,
The Investigation Officer,
CCB Cr.No.441/2015,
Central Crime Branch,
Job Racket Wing,
(Velaivaippu Mosadi Thaduppu Pirivu),
Veperi, Chennai-600 007.

... Respondents

Prayer:-Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration, declaring the selection of candidates and their appointments as Junior Engineers under the first respondent



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pursuant to the Recruitment Notice 2014 vide Advertisement No.01-05/MTC/2014 dated 02.11.2014 issued by the first respondent as illegal, vitiated by corrupt means and unconstitutional, void ab initio and consequently to direct the first respondent to redraw the selection list based on the true marks scored by the candidates in the selection and consider the case of the petitioners for such selection accordingly and consequently to make appointments afresh replacing the already appointed candidates as Junior Engineers and further to direct the second respondent to issue appropriate orders directing all the recruitment authorities to publish in the advertisement itself for any selection for making public appointments the procedure to be followed in the selection and to publish the results of any examination either oral or written conducted for such selection disclosing the name, age, community and marks scored in each examination by all the participants in the examinations conducted for the selection within a time frame as may be fixed by this Court and also issue appropriate direction to the first respondent to pay adequate compensation to the petitioners as may be fixed by this Court for their non-selection as Junior Engineers illegally by the first respondent.

For Petitioner(s) : Mr.N.Subramaniyan
in all WPs.

For Respondent-1 : Mr.Gauthamaraj
in all WPs.

For Respondent-2 : Mr.R.U.Dinesh Rajkumar, AGP
in all WPs.

For Respondent-3 : Mr.R.Vinothraja,
Govt. Advocate (Crl. Side)

For Respondent : Mr.S.T.Varadharajulu
Nos.10 & 35 in W.P.No.9061 of 2021



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COMMON ORDER

Challenging the selection of candidates and their appointments as Junior Engineers/Assistant Engineers under the first respondent pursuant to the Recruitment Notice 2014 vide Advertisement No.01-05/MTC/2014 dated 02.11.2014 issued by the first respondent and consequently to direct the first respondent to redraw the selection list based on the true marks scored by the candidates in the selection and consider the case of the petitioners for such selection accordingly and further to make appointments afresh replacing the already appointed candidates as Junior Engineers/Assistant Engineers and further to direct the second respondent to issue appropriate orders, directing all the recruitment authorities to publish in the advertisement itself for any selection for making public appointments, the procedure to be followed in the selection and to publish the results of any examination either oral or written conducted for such selection disclosing the name, age, community and marks scored in each examination by all the participants in the examinations conducted for the selection within a time frame as fixed by this Court and also to issue appropriate direction to the first respondent to pay adequate compensation to the



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petitioners as fixed by this Court for their non-selection as Junior Engineers/Assistant Engineers for their illegal act, the Writ Petitions have been preferred by the petitioners.

2. Heard both sides.

3. The brief facts of the case is as follows:

The petitioners herein have completed their Diploma/Degree and one year apprenticeship under Transport Corporations / recognized workshops, qualifying them for appointment as Junior Engineers / Assistant Engineers in the first respondent Corporation. The first respondent issued Advertisement No.01-05/MTC/2014, calling for applications for various posts. The petitioners applied for the post of Junior Engineers/Assistant Engineers and participated in the interview. However, they neither received selection order nor communication from the first respondent. In the meantime, the petitioners were summoned to the third respondent's office for an enquiry regarding CCB Cr.No.441 of 2015 on 08.10.2020, 28.09.2020, and 08.10.2020. They participated in the enquiry, where the third respondent confirmed their participation in the selection for Junior Engineers/Assistant Engineers under the first respondent. They were shown their answer



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sheets and their marks, as well as the marks of the selected candidates to the said post. The petitioners were shocked to find that their true interview marks were not considered for selection, whereas very low marks being falsely considered for selection. It reveals that the petitioners were intentionally refrained from getting appointment even though they have secured higher score than the selectees. Thus, the first respondent committed offences punishable under Sections 218, 409, 420 of IPC and criminal proceedings are ongoing on the third respondent's file. The petitioners believed non-selection as illegal and consequence of corruption. The first respondent fabricated false documents showing lower marks for the petitioners which resulted for their rejection. The petitioners also questioned about the non publication of mode of awarding marks for selection in the advertisement of the first respondent preventing the participants from knowing their marks and challenging the selection, if aggrieved. The results of oral tests and written examinations are not published, whereby the selection list alone was published allowing the authorities to carry out illegalities and to appoint the candidates who secured lower marks than the petitioners which amounts to violation of Article 14 of the Constitution of India.



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4. Aggrieved over the same, the present Writ Petitions have been filed by the petitioners herein.

5. Since the issue involved in all these Writ Petitions are one and the same, they were taken up together and disposed of by way of a common order.

6. Arguments put forth by the learned counsel on behalf of the petitioners:-

Facts of the cases:

6.1. The official respondents issued notification dated 02.11.2014, notifying 13 vacancies for the post of Junior Engineers and 40 vacancies for the post of Assistant Engineers in Metropolitan Transport Corporation (MTC) to recruit candidates through open competition and employment exchange. The selection procedure contemplated is that, selection will be done based on 75% weightage of academic marks and 25% weightage of interview marks scored by the candidates. Accordingly, the candidates applied for the selection and interviews were conducted for the said posts and marks were awarded in the interview. The appointments were made for 33



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candidates as Junior Engineers even though only 13 vacancies were notified as well as for Assistant Engineers.

6.2. At this juncture, a criminal case was registered in Crime No. 441 of 2015 to investigate the corruption indulged in the said selection by the third respondent. The third respondent enquired the petitioners and received the copies of the petitioners' mark-sheets and also shown the marks scored by the 33 appointees/private respondents to the petitioners herein in regard to Junior Engineers and the same has been done in respect of Assistant Engineers. During the enquiry, the petitioners were shocked to know that the petitioners' academic and interview marks were wrongly entered in the register by reducing their marks which were noted by them. Aggrieved by the same, the petitioners came to file the aforesaid Writ Petitions.

6.3. The petitioners have stated their actual marks which they scored in their selection in the writ affidavit and also stated as to how the same has been entered in the selection register with the reduced values. The marks of the petitioners herein and private respondents/33 Junior Engineers are stated in para 78 of the counter affidavit dated 30.04.2021 filed by the third respondent herein.



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6.4. A mere perusal of the records would reveal that the selection was made fraudulently for the posts of Junior Engineers as well as Assistant Engineers which is unsustainable in the eye of law.

6.5. In para 6 of the petitioners' (pertaining to Junior Engineers) affidavit it was stated that, as to how their marks were manipulated to exclude them from selection. The marks of the petitioners as well as the private respondents were tabulated in para 78 of the counter affidavit of the third respondent. Neither the other official respondents nor the private respondents have disputed the above said marks, nor they could dispute the same, because the marks are academic marks issued by the Government Polytechnic Colleges, which could not be manipulated. Moreover, similarly, the illegalities and manipulation of marks in the selection of Assistant Engineers could be seen in para 7 of the affidavit in W.P.No. 8991 of 2021.

Submissions:

6.6. The learned counsel for the petitioners submitted that despite the petitioners having more marks than the private respondents, the private respondents were selected which reveal that



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non selection of the petitioners is illegal, discriminatory and violative of Articles 14 and 16(1) of the Constitution of India. He further contended that it is clear that the petitioners' right to be considered for public appointment guaranteed under Article 16(1) of the Constitution of India, by which the entire selection and the consequential appointments of the private respondents became *void ab initio* and hence, the same is to be declared as null and void by allowing the Writ Petitions.

6.7. Furthermore, the learned counsel submitted that the petitioners are fully qualified and eligible for appointment in the subject notification of the year 2014 itself and because of the illegal appointments of the private respondents, the petitioners were not selected and appointed and therefore, he prayed that the official respondents shall be directed to draw the selection list afresh based on the actual marks scored by the candidates and to consider the petitioners' name to be included in the revised selection list and accordingly, to issue fresh appointment orders with retrospective effect from the date on which the private respondents were appointed with all service and monetary benefits. Despite these illegalities were known to the State, who is prosecuting the Crime No.441 of 2015 and



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also having filed charge sheets, as well as filed counter affidavit on 30.04.2021, have failed to cancel the impugned selection and appointments and to make appointments afresh in accordance with law based on the marks scored by the candidates in the place of illegal selectees. Therefore, the denial of appointment to the petitioners, who are lawfully entitle to the same due to the inaction of the State and allowing the illegalities to perpetuate for 9 years is a gross abuse of power/fraud on the Constitution of India committed by the persons in charge of the administration of the Transport department. Hence, this Court should direct appointment of the petitioners like candidates based on the marks scored by them with effect from the date of appointment of the private respondents with all service and monetary benefits.

6.8. At this point of time, it is relevant to refer to the decision of the Hon'ble Supreme Court in ***Sadhana Singh Dangi & Others Vs. Pinki Asati & Others*** reported in ***2022 (12) SCC 401***, wherein the Court had directed the authorities to appoint the candidates, who had not been appointed despite having more marks, with all service and monetary benefits including completion of probation, with effects from the date on which the candidates with lesser marks were appointed.



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The said decision of the Hon'ble Supreme Court in *Sadhana Singh Dangi's case stated supra* is squarely applicable to the facts of the case and hence, the petitioners are entitled to be considered for appointment from the date on which the illegal selectees had joined the service. This Court, following the above judgment in *Sadhana Singh Dangi's case*, allowed W.P.No.31751 of 2015 in the matter of ***V.Sivakumar Vs. Tamil Nadu Public Service Commission***, directing the authorities to appoint the petitioners with retrospective effect with all service and monetary benefits, excluding the arrears for delay in making appointment.

6.9. In response to the arguments of the learned counsel for the first respondent, the learned counsel for the petitioners submitted that the contentions of the respondents that charge sheet was filed and trial is to commence shortly and hence, unless the commission of crime in the impugned selection is proved by the competent criminal Court, the writ petitions should not be heard and should be adjourned awaiting the result of the criminal cases, is untenable.

6.10. It is predominant to note that the selection made was fraudulent and remains undisputed which is obvious on perusal of the



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counter affidavit of the third respondent and the same is in violation to the fundamental rights of the petitioners and vitiating the entire selection and *void ab initio* by virtue of Article 13(2) of the Constitution of India.

6.11. In criminal cases, the criminal case is to decide the criminality of the authorities and their *mens rea* which has no bearing to decide the validity of the subject selection which is *ex-facie* illegal.

6.12. It is pertinent to note that the third respondent furnished the marks of the petitioners herein and the appointees which were not disputed by the other respondents including the private respondents and hence, the entire selection for appointments to the category of Assistant Engineers and Junior Engineers are liable to be quashed forthwith and a direction shall be issued to redraw the same based on the actual marks obtained by the petitioners herein. In view of the aforesaid reasons, the arguments of the respondents are untenable and hence, the learned counsel for the petitioners prayed this Court that the respondents are liable to be imposed with heavy costs.



7. Contentions of the first respondent:

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7.1. The learned counsel for the first respondent submitted that the advertisement for the subject matter recruitment was issued on 02.11.2014 to the various posts like drivers, conductor, Assistant Engineer and Junior Engineer. It is further submitted that subsequent to the recruitment process, the appointment orders were issued to the successful candidates in the year 2015 and they have joined their respective services between January 2015 and August 2015. He contended that the selection under Advertisement No.01 05/MTC/2014 dated 01.11.2014 consists of two-tier selection process wherein the academic marks account for 75% marks and remaining 25% marks were awarded based on the evaluation in the interview. Continuing his submissions, he drew the attention of this Court that it is predominant to note that the petitioners have only challenged the selection process of 2014 in the year 2021 with the delay of nearly 7 years alleging the same as tainted, illegal and fraudulent. He stated that the Writ Petition in W.P.No. 9061 of 2021 was filed challenging the recruitment process of the Assistant Engineers, whereas the other Writ Petitions were filed challenging the recruitment process of the Junior Engineers under the same notification.



7.2. Apparently, it is relevant to point out that the Writ Petitions filed by the petitioners are miserably hit by delay and latches which was also admitted by the petitioners herein stating that since they did not receive selection order or any communication from the first respondent in the year 2015, they left the same.

7.3. Moreover, he submitted that the petitioners herein have stated that they were summoned to attend the office of the third respondent for an enquiry in respect of Crime No. 441 of 2015 registered by them for the alleged offences under Sections 218, 409 and 420 of IPC and the petitioners were shown their marks and also the marks of the candidates, who was placed at the first position of selection list of Junior Engineers / Assistant Engineers and were shocked to find that the petitioners true interview marks were not taken into consideration for the selection. He further submitted that the petitioners have filed the present Writ Petitions solely based on the alleged enquiry conducted by the third respondent in the criminal cases registered in this regard and they prayed this Court to a roving enquiry.



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7.4. Furthermore, he submitted that when an illegality is alleged in the selection process on the basis of enquiry conducted by the third respondent and the same is culminated into the criminal proceedings which was taken on file in C.C.No. 24 of 2021 by the learned Special Court for the Trial of Criminal Cases related to MP/MLA, Chennai, unless, the Criminal Court holds that the entire selection process is tainted with illegality, the relief sought by the petitioners cannot be granted on the basis of the averments made by the petitioners in their affidavits or the counter affidavit of the third respondent. It is further submitted that the said averments cannot be admitted by the second respondent at this stage and it remains the disputed question of facts.

7.5. It is submitted that the whole averments of the petitioners are on the premises of criminal proceedings initiated in Crime No.441 of 2015 by the third respondent which is culminated into the criminal proceedings which was taken on file as C.C.No. 24 of 2021 by the learned Special Court for the Trial of Criminal Cases related to MP/MLAs, Chennai and on the strength of the same, the petitioners alleged that the entire selection process is tainted, *ex-facie* illegal and *void ab initio*. In view of the above facts, the petitioners prays to



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appoint them by redrawing the seniority as per the alleged true marks obtained in the very same selection process amounts to approbation and reprobation, which cannot be permitted.

7.6. He argued that since the entire records were seized by the third respondent, the first respondent herein is not in a position to produce the same before this Court or to make any remarks on it. But on the other hand, the relief sought by the petitioners were based on the enquiry conducted by the third respondent in the criminal case and alleged tampered records is unknown to law, much less the service jurisprudence. That apart, the petitioners nowhere assigned any reasons for the delay and laches for seven years, who now states that if the first respondent had published the marks of all the candidates, they could have challenged the selection process in the year 2015 itself. Hence, he prayed that the Writ Petitions deserves to be dismissed on the above grounds.

8. The learned counsel for the petitioners replied to the submissions of the learned counsel for the first respondent Corporation in respect of the fact that the Writ Petitions are hit by delay and laches, is implausible. The first respondent selected and appointed the



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candidates, who have secured lesser marks on fraudulent basis and the said illegalities came to light only in the year 2020 when the petitioners were summoned for enquiry and they immediately filed the Writ Petitions whereby the question of delay or laches does not arise. It is relevant to note that rudimentary principle of law that the delay or laches commence only from the date of knowledge and therefore, the argument that the Writ Petitions are hit by delay and laches is baseless and the same is liable to be rejected. Apart from the same, the illegality violates the fundamental right to be considered for appointment of the petitioners to public office and hence, such appointments of lesser meritorious candidates are void ab initio by virtue of Article 13(2) of the Constitution of India and hence, the same shall be quashed.

9. In addition, he contended that the first respondent having failed to file counter affidavit for years together has no right to argue in respect of delay and laches. He submitted that the Writ Petitions are based on enquiry in the pending criminal cases and a roving enquiry is required in this matter. Moreover, he submitted that there may be a direction to produce the university marks sheets of the private respondents\appointed candidates and the same has to be compared



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with the university mark sheets of the petitioners herein. In regard to the argument of the first respondent that criminal cases are pending in C.C.No.24 of 2021 are to punish the criminals and not to quash the selection is not acceptable.

10. At this stage, it is pertinent to note that the Writ Petitions can be decided by simply comparing the mark sheets of the selected candidates and the petitioners herein whose marks sheets are already filed before this Court. Hence, the same is negated. It is seen that selection upto interview was done correctly and marks were awarded correctly. The first respondent made appointments disregarding the marks and to suit the same, fabricated the records to suit the illegal selection, that too by lowering even the University marks which can be seen para-78 of the counter affidavit filed by the third respondent and also para 7 of the affidavit of the Assistant Engineers. Therefore, the petitioners need the selection be made afresh based on the actual marks and hence, there is no approbation and reprobation as alleged by the first respondent. In regard to the statements of first respondent that the records are with the third respondent has no relevance to decide the petitions as the same shall be proved through comparison of marks of selected and non selected candidates. The first



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respondent, a public servant getting salary from the public funds betrays them abusing his position without ensuring that the private respondent employees are bone-fidely selected or not by verifying their mark sheets which is unpardonable misconduct committed by the first respondent and hence the same, is *per se* illegal.

11. The submissions of the first respondent is totally wrong and the same is to allow the private respondents / illegal appointees to continue in service and receive salary despite unlawful selection where the same amounts to criminal breach of trust and hence, this Court should reject their submissions and prayed to all the Writ Petitions with exemplary costs.

12. The third respondent had filed their counter in the year 2021 in which it has been stated that on investigation it came to light that, the appointments were made on fraudulent basis and the relevant documents have been fabricated whereby the candidates, who have secured lower marks have been selected in the place of the eligible candidates. Hence, a criminal case has been registered in Cr.No.441 Of 2015 and charge sheet was filed and the same has been taken on file in C.C.No.4 of 2021 by the learned Special Judge for trial of criminal cases relating to MP/MLAs, Chennai and the trial is pending.



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13. The learned counsel for the respondents 10 & 35 in W.P.No.9061 of 2021 submitted that they were called for the interview, evaluated based on performance and issued with orders of appointments. At this point of time, it is vital to state that some of the employees, who were selected have even been sponsored by the employment exchange and there could never be any manipulation as alleged by the petitioners herein and the third respondent and hence, the prayer sought for by the the petitioners herein, is unsustainable.

14. He further submitted that the private respondents have worked without any complaint from any quarters for almost one decade and any disturbance at this length of time would adversely affect them since most of them have become over aged. It is pertinent to note that this Court while hearing the matter for admission in W.P. No. 9061 of 2021 on 09.04.2021, has directed only the respondents No. 1 and 2 to file their counter affidavits with a mere further direction to the third respondent to produce the records. Moreover, the marks stated in the counter affidavit filed by the third respondent and his records can never be relied upon till the criminal Court adjudicates on the very veracity and genuineness of the



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documents. It is further submitted that the petitioners herein, who were well aware of the criminal proceedings as early as in the year 2015, has neither approached the first respondent nor this Court at the earliest for the reasons best known to them. It is contended by the learned counsel that due to some political motive, the third respondent herein had filed the counter affidavit immediately on 20.04.2021 supporting the contentions of the petitioners. It is submitted that the Writ Petitions were filed only as an afterthought with the delay of several years which deserves to be dismissed based on the aforesaid grounds.

Analysation of the case:

15. On a careful perusal of the case, it is seen that the appointments for the posts of Junior Engineers/Assistant Engineers in the Metropolitan Transport Corporation in the year 2015 have been obtained fraudulently by manipulating the marks in the register, which came to light on investigation by the third respondent. In view of the same, a criminal case has been registered and the same was taken on file in C.C.No.24 of 2021 by the learned Special Court for trial of criminal cases relating to MP/MLAs, Chennai and it is pending for trial. Due to the deceptive act of the first respondent, the petitioners herein,



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who are eligible for appointment to the aforesaid posts have been denied the opportunity of appointments.

16. At this point of time, it is relevant to refer to the submissions made by the first respondent that pendency of the criminal case in regard to the recruitment process does not stand on the way and hence, this Court is of the view that there may be a direction to the first respondent to consider the grievances ventilated by the petitioners herein in these petitions, as it would affect their fundamental rights and to secure the ends of justice, it would be appropriate for this Court to remit the matter for fresh consideration.

17. Considering the facts and circumstances of the case and taking note of the submissions made by the learned counsels for the parties, this Court is of the considered opinion that the matter needs revisit, hence at this stage, *Simpliciter*, in the interest of Justice, Fair Play, Equity, Good Conscience and even as a matter of prudence, remitting the matters back for fresh consideration by directing the respondents concerned to look into the case of the petitioners and to pass necessary orders on merits and in accordance with law, as expeditiously as possible, in any event, within a period of eight weeks from the date of receipt of a copy of this order.



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18. With the above observations and directions, the Writ Petitions stand disposed of. Consequently, connected Miscellaneous Petition(s) is/are closed. There shall be no orders as to costs.

13.12.2024

Index: Yes
Order: Speaking
NCC : Yes

DP



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To

- 1.The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai-600 002.
- 2.The Secretary,
Government of Tamil Nadu,
Transport Department,
Secretariat, Chennai-600 009.
- 3.The Assistant Commissioner of Police,
The Investigation Officer,
CCB Cr.No.441/2015,
Central Crime Branch,
Job Racket Wing,
(Velaivaippu Mosadi Thaduppu Pirivu),
Veperi, Chennai-600 007.



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W.P.Nos.9061, 8991, 9672, 10396 & 13838 of 2021

VIVEK KUMAR SINGH, J.

DP

ORDER MADE IN

W.P.Nos.9061, 8991, 9672, 10396 & 13838 of 2021
and
W.M.P.Nos.9521, 9602, 10248 & 10986 & 14708 of 2021

13.12.2024