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W.P.No.10072 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10072 of 2022

and

W.M.P.Nos.9777 & 9778 of 2022

- 1.Suriyakumar
- 2.S.Palanisamy
- 3.K.Balvannan
- 4.A.Nagoor Mohideen
- 5.P.Sivasubramanian
- 6.A.Kalpana

... Petitioners

-Vs-

1.State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St.George,
Secretariat,
Chennai-600 009.

2.The Director General,
Highways Department,
Guindy, Chennai600 025.

3.The Joint Director (Administration),
O/o.the Director General,
Highways Department,
Guindy, Chennai600 025.



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4.The Chairman,
Tamil Nadu Public Service Commission,
VOC Nagar, Park Town,
Chennai-600 003.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, forbearing the respondents from filling up the post of Junior Drafting Officer (JDO) by direct recruitment without filling up the vacancies to the post of Junior Drafting Officer (JDO) by promotion from the panel year 2017 following year wise panel and consequently direct the respondents to promote the petitioners to the post of Junior Drafting Officer on drawal of year wise panel prior to direct recruitment.

For Petitioners : Mr.G.Sankaran

For R1 to R3 : Mr.U.Baranidharan
Additional Government Pleader

For R4 : Mr.R.Baranidharan, Senior Counsel

ORDER

This Writ Petition has been filed for issuance of writ of mandamus, forbearing the respondents from filling up the post of Junior Drafting Officer (herein after referred as “JDO”) by direct recruitment without filling up the vacancies to the post of JDO by promotion from the panel year 2017 following year wise panel and consequently direct the



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respondents to promote the petitioners to the post of JDO on drawl of year wise panel prior to direct recruitment.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners were appointed as Road Inspector Grade-II in Highways Department on 11.12.2009. They were promoted to the post of Road Inspector Grade-I. Therefore, the petitioners are eligible for promotion to the post of JDO with Diploma in Civil Engineering and completed requisite period of service. Though the list of eligible persons were called for from the year 2017, they were not promoted. All the posts of JDO was sought to be filled up by direct recruitment, as per Notification issued by the 4th respondent dated 05.03.2021.

4. The learned Senior Counsel appearing for the petitioners submitted that as per the Special Rules for Tamil Nadu Highways Engineering Subordinate Service, the post of Road Inspector remains to be a feeder post for promotion to the post of Junior Engineer. The post of



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Road Inspector, along with the post of Assistant Draftsman, remains to be a feeder post for promotion to the post of JDO. The Rule prescribes the qualification for appointment to the post of JDO by transfer from the post of Road Inspector. In fact, the second respondent called for proforma of eligible persons working in the post of Road Inspector every year from the District Level Officer for the purpose of drawal of panel for promotion to the post of JDO. However, no panel was drawn by including the names of eligible candidates to the post of JDO. The respondents proceeded to give promotion only from the category of Assistant Draftsman, though they are juniors to the petitioners in service in the year 2018 and 2021. No panel was drawn so far from the post of Road Inspector to the post of JDO. However, the respondents notified 188 vacancies to be filled up by direct recruitment. As per the ratio, 30% vacancies were to be filled up by promotion and 70% vacancies were to be filled up by direct recruitment. Therefore, the petitioners filed writ petition before this Court in W.P.No.7179 of 2022 and this Court directed the respondents to consider the representation of the petitioners and pass appropriate orders in accordance with law. Thereafter, the respondents are taking steps by calling for particulars from the eligible



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persons from all Divisions for preparation of panel for promotion to the post of JDO. However, so far no combined seniority panel has been drawn and the respondents are proceeding to fill up the vacancies by direct recruitment, which is in violation of Section 7 of Tamil Nadu Government Servants (Condition of Service) Act. Hence, the present writ petition.

5. A perusal of the counter filed by the respondents reveals that the service of the Road Inspector comes under the Work Charged Establishment, which is under the control of Divisional Engineers of the Construction and Maintenance wing of Highways Department for appointment to the post of JDO by promotion to the post of Road Inspector Grade-I. Therefore, the seniority of Road Inspector Grade-I arrived at the Divisional level as only from the State level seniority list only for JDO can be prepared year wise. There is no fixed apportionment of percentage or divisions amongst the direct recruitment and through transfer of service from the feeder categories. The year wise panel consisting of seniority promotion panel list and fix the estimate of vacancy for the post of JDO in Highways Department could not be



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prepared for want of a “One Unit System”, seniority amongst Road Inspectors.

6. The main contention of the petitioners is that without considering the post of Road Inspector Grade-I for the promotion to the post of JDO, the respondents are considering only to grant permission only to the category of Assistant Draftsman.

7. In this regard, it is relevant to rely upon the order of this Court in W.P.Nos.14219 and 14220 of 2019, dated 18.01.2020, in which, this Court held that where the relevant Act or Rules prescribe for preparation of a panel every year, it is mandatory on the part of the Government/Department to prepare the panel every year since, it is a fundamental right of every Government Servant to be considered for promotion at the relevant point of time. The guarantee of a fair consideration in the matters of promotion under Article 16 of the Constitution of India flows from the guarantee of equality under Article 14 of the Constitution.



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7. Therefore, the respondents are directed to prepare yearwise panel and accordingly, promote the eligible persons to the post of JDO on drawal of yearwise panel prior to the direct recruitment.

8. With the above direction, this Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

No costs.

02.01.2024

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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To

1.The Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St.George, Secretariat, Chennai-600 009.

2.The Director General,
Highways Department,
Guindy, Chennai600 025.

3.The Joint Director (Administration),
O/o.the Director General,
Highways Department,
Guindy, Chennai - 600 025.



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4.The Chairman,
Tamil Nadu Public Service Commission,
VOC Nagar, Park Town,
Chennai-600 003.

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