



W.P.No.7077 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **29.07.2024**

CORAM

THE HONOURABLE Ms. JUSTICE **P.T.ASHA**

**W.P.No.7077 of 2015**

R.Radhakrishnan

...Petitioner

-VS-

1.The Principal Director,  
Highways Department,  
Chepauk, Chennai – 5.

2.The Divisional Engineer,  
Highways (C & M), Vellore.

3.The Assistant Divisional Engineer,  
Highways (C & M), Arakkonam,  
Vellore District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his Memo No.12521/ Nir.4(1)/ 2014 dated 09.02.2015 and quash the same and consequently directing the respondents to calculate the pension proposal of the petitioner by



W.P.No.7077 of 2015

taking into consideration of his date of appointment from 01.06.1981 and disburse the pension to the petitioner within a stipulated time.

For petitioner : Mrs.Hema,  
for Mr.C.Prakasam

For respondents : Mr.V.Jeevagiridharan,  
Additional Government Pleader

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### **ORDER**

The petitioner has filed this writ petition seeking to quash the order dated 09.02.2015 passed by the first respondent rejecting his request to consider his service from 01.06.1981 for the purpose of calculating his pension and consequently, to direct the respondents to take into consideration the date of his appointment from 01.06.1981 and disburse his pension.

2. It is the case of the petitioner that he was appointed as Road Roller Driver on 01.06.1981 and he was engaged in a temporary post from 01.06.1981 to 01.01.1992. He had worked as



W.P.No.7077 of 2015

Road Roller Driver for 2,985 days and subsequently, when the Gang Mazdoor post fall vacant, the respondents did not take any steps to appoint the petitioner in the said post. Therefore, the petitioner and 11 others had filed a writ petition in W.P.No.14620 of 2012 praying that they may be appointed in the existing or future vacancies as Gang Mazdoor in the regular time scale of pay by drawing reliance upon the judgment of this Court in writ petition in W.P.No.36623 of 2004 which was upheld by the Division Bench of this Court in writ appeal in W.A.No.1260 of 2008 and confirmed by the Hon'ble Supreme Court in C.C.No.14093 of 2010.

3. By an order dated 13.06.2012, this Court allowed the writ petition in W.P.No.14620 of 2012 and directed the respondents to appoint the petitioner and others as Gang Mazdoor. Thereafter, the petitioner was confirmed in the post of Gang Mazdoor on 26.04.2013. The third respondent had passed orders in his proceedings Sae.Mu.Ka.No.34/2013/E.Ni.U dated 02.05.2013 and



W.P.No.7077 of 2015

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directed the petitioner to join duty at Arakkonam Highways West Division.

4. Though the respondents had regularized the petitioner as Gang Mazdoor, they refused to take into account his earlier engagement as Road Roller Driver from 01.06.1981 to 01.01.1992. The petitioner would further submit that as per G.O.Ms.No.702, Transport Department dated 18.06.1981, if NMRS had worked and completed five years of service, they should be appointed in the regular post of service such as basic Servants, Cleaners and Road Inspectors, etc. However, the respondents had not given this benefit to the petitioner.

5. The petitioner had also made a written representation dated 14.07.2014 to the respondents to consider his earlier service as he was due to retire on 31.07.2014. Since the representation was not disposed of, the petitioner had filed a writ petition in W.P.No.19860



W.P.No.7077 of 2015

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of 2014. This Court directed the respondents to consider the petitioner's written representation dated 14.07.2014 and pass orders. Thereafter, by the impugned order, the request of the petitioner was rejected.

6. Challenging the same, the petitioner is before this Court.

7. Though no counter was filed on the side of the respondents, the learned Additional Government Pleader appearing for the respondents had pointed out to this Court that pursuant to the order in the earlier writ petition in W.P.No.14620 of 2012, the petitioner and others were regularized in their service, by relaxing the rules *vide* order dated 26.04.2013. It further reads that these employees would be considered for grant of pension under the Contributory Pension Scheme introduced on 01.04.2003 with effect from the date of their appointment and that the petitioner and others were to receive their re-employment order from the Sub Divisional



W.P.No.7077 of 2015

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Officer. He would, therefore, submit that without challenging the said order which shows that the petitioner was appointed as fresh recruits, the present relief in the writ petition cannot be granted.

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

9. As rightly pointed out, on 26.04.2013, directions were issued by the 2<sup>nd</sup> respondent to re-employ the petitioner and others in the post of Gang Mazdoor which was followed by the proceedings of the 3<sup>rd</sup> respondent directing the petitioner to join duty at Arakkonam Highways where he had also joined duty. In the said order, it was clearly stated that the employment would be with effect from the date of the order and the petitioner was also brought under Contributory Pension Scheme which had come into effect on 01.04.2003 with effect from the date of his appointment. Therefore, in the light of not challenging the order dated 26.03.2014 and the



W.P.No.7077 of 2015

consequent order dated 02.05.2013, the request of the petitioner cannot be countenanced.

Accordingly, this writ petition is dismissed. No costs.

**29.07.2024**

Internet : Yes  
Index : Yes/No  
Speaking order/Non-speaking order  
ssa

To

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W.P.No.7077 of 2015

**P.T.ASHA, J.,**

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**W.P.No.7077 of 2015**

**29.07.2024**