



W.P.No.12517 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.12517 of 2018

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W.M.P.No.14663 of 2018

1.Tamil Nadu Highways Road Inspector Association
Reg.No.127/2011
Rep its General Secretary
M.Marimuthu
No.3/1076-2, Muthuralamalingam Nagar
Virudhunagar

2.B.Bubalasingam

... Petitioners

Vs.

1.The Government of Tamil Nadu
Rep by the Secretary to the Government
Highways (HK3) and Minor Ports Department
Fort St.George, Chennai-600 009

2.The Director General
The office of the Director (HW)
Department of Highways
Guindy, Chennai-600 025



W.P.No.12517 of 2018

3.The Tamil Nadu Public Service Commission

Rep by its Secretary

TNPSC Road, VOC Nagar

Park Town, Chennai-3

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Notification No.05/2018 dated 28.02.2018 issued by the 3rd respondent, quash the same to the extent it has notified 160 vacancies of Assistant Engineer (Civil) in the Highways Department (post code No.1661), Tamil Nadu Highways Engineering Service (service code No.011) and to consequently direct the respondents to apportion the said vacancies in accordance with the cadre strength of the posts of Assistant Engineer and Junior Engineer as per the said G.O.MS.No.82 in the future.

For Petitioners : Ms.S.Meenakshi

For Respondents : Ms.E.Ranganayaki, AGP for R1 and 2

Mr.I.Abrar MD Abdullah for R3



W.P.No.12517 of 2018

ORDER

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Writ Petition has been filed questioning the notification No.05/2018 dated 28.02.2018 issued by the 3rd respondent seeking to fill up 160 vacancies of Assistant Engineer (Civil) in the Highways Department and sought for a direction to apportion the post of Assistant Engineer (Civil) in accordance with the cadre strength fixed by G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012.

2. The recruitment pursuant to the impugned notification is already stated to have been concluded and the persons who were selected pursuant to said notification are not impleaded as party respondents to the Writ Petition. However, learned counsel for the petitioner contended that the issue pertaining to G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012, wherein the total cadre strength of 972 posts of Assistant Engineer/Junior Engineer were refixed as 760 for Assistant Engineer and 212 for Junior Engineer.

3. In response to the claims made by the petitioners the



W.P.No.12517 of 2018

respondents 1 and 2, filed a counter affidavit stating that in case if the orders issued in the G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012, is to be given effect to, the respondents have to act in contravention of R.18(a) of Tamil Nadu Highways Engineering Service Rules, which provides for reservation of vacancy in the post of Assistant Engineer. It is also further stated that some of the persons who are aggrieved by G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012, approached this Court by filing W.P.No.27218 of 2012 and the said Writ Petition was disposed of by an order dated 10.01.2013, basing upon the statement made by the Special Government Pleader that Special Rule 18(a) would be implemented.

4. It is also further stated that taking note of the conflict between the orders issued in G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012 and R.18(a) of the Special Rules, different proposals were submitted firstly seeking appropriate amendment to Special Rules i.e., R.18(a) and secondly to withdraw G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012 and the said proposals are



still pending for consideration. The relevant paragraphs in the counter affidavit filed by the respondents 1 and 2 reads as under:

" 5. It is submitted that the nature of work for the post of Assistant Engineer/Junior Engineer's are same but the prescribed educational qualification are different. Hence as per the G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012 it is impossible to segregate the cadre strength to the post of Assistant Engineer/Junior Engineer to implement practically. Prior to the issue of G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012, the proportioning between Assistant Engineers and Junior Engineers was followed as per the rule 18(a) of Special Rules of Tamil Nadu Highways Engineering Service. Therefore, the 2nd respondent in its office letter No.2854/Nir 2 (2)/2010 dated 29.01.2015 requested the Government to withdraw the above said G.O.

6. It is submitted that the proposal has been sent from the 2nd respondent in his office letter dated 12.04.2018 regarding amending the rule 18(a) of Special Rules of Tamil Nadu Highways Engineering Service as



withdrawn, since the proposal already sent to the Government to withdraw the G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012. The above two proposals are under consideration within the Government. At this juncture, it is not possible to implement the G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012.

5. In the light of the above, the relief sought for by the petitioners in this Writ Petition in so far as giving effect to G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012 is concerned, the same is pending for consideration before the Government.

6. Learned Additional Government Pleader also on specific instructions received from the respondents/departments categorically submitted that the said proposals are still pending as on date before the Government.

7. In the light of the above, in the considered view of this Court



W.P.No.12517 of 2018

unless and until the Government takes a decision on the twin proposals submitted by the department as noted above and as contained in paragraphs 5 and 6 of the counter affidavit, it is not possible to issue any positive direction in this Writ Petition directing for implementation of G.O.Ms.No.82, Highways and Minor Ports (HK2) Department, dated 08.05.2012. In the light of the above, it would be appropriate to dispose of the Writ Petition directing the respondents 1 and 2 to take a decision on the proposals submitted by the 1st respondent.

8. Accordingly, the Writ Petition is disposed of directing the 1st respondent to take a decision on the proposals submitted by the Director General, the Department of High Ways, Chennai, seeking amendment to R.18(a) of Special Rules of Tamil Nadu Highways Service, through the letter of the 2nd respondent dated 12.04.2018 as well as the proposals submitted by the 2nd respondent in Officer Letter 2854/Nir 2(2)/2010 dated 29.01.2015 and pass appropriate orders thereon as expeditiously as possible at any rate within a period of eight weeks from the date of receipt of a copy of this order and communicate the same to the petitioners herein. On passing of such order, in



W.P.No.12517 of 2018

case if the Writ Petitioners are aggrieved by such order, it is open to the Writ Petitioners to take appropriate steps against the said orders. Any recruitment made hereafter to the post of Assistant Engineer/Junior Engineer shall be subject to the final decision to be taken by the Government as per the above direction. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

22.04.2024

NCC : Yes/No

Index : Yes/No

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To

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W.P.No.12517 of 2018

MUMMINENI SUDHEER KUMAR, J.

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W.P.No.12517 of 2018
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