



WEB COPY



W.A.Nos.949 and 1767 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.949 of 2018 and

CMP No. 8081 of 2018

W.A.No.1767 of 2018 and

CMP Nos.14201 and 19848 of 2018

W.A.No.949 of 2018

1. C.Geetha
2. R.Kirankumar
3. C.Sureshkumar
4. C.Balamurugan
5. A.Gopi
6. R.Rajalekshmi
7. R.Rajeswari
8. R.Malarvizhi
9. T.Sasiendran
10. A.Manivannan
11. J.Bhuvaneswari
12. N.Sivashankar

... Appellants



W.A.Nos.949 and 1767 of 2018

Vs.

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1. The Government of Tamilnadu,
rep. by its Secretary, Public Works Department,
Secretariat, Chennai-9.
2. The Engineer-in-Chief (Buildings) and
Chief Engineer (Buildings) Chennai Region cum
Chief Engineer General), Public Works Department,
Chepauk, Chennai-5.
3. The Tamilnadu Public Service Commission,
Rep. by its Secretary, Frazer Bridge Road,
Chennai 600 003.
4. N.Manickarajan, Assistant Engineer, PWD,
Electrical Section-1, Tallakulam PWD Campus,
Madurai 625 002.
5. P.Sakthivel, Assistant Engineer, PWD,
Electrical Section, Mettur Dam, LSB Park,
Mettur, 636 401.
6. S.Jeyaganesan, Assistant Engineer, PWD,
Electrical Section, Justice and Ministers Quarters Compound,
Greenways Road, Chennai-28.
7. A.Natarajan, Assistant Engineer (Electrical)
Chennai Trade Centre, 6A, 6B, 6C,
Mount Poonamallee High Road,
Nandambakkam, Chennai-89.
8. M.Sampathkumar, Assistant Engineer, PWD,
Electrical Section, MW,
Government Peripheral Hospital,
3rd Avenue, Anna Nagar, Chennai - 102.



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9. Douglas, E. Assistant Engineer, PWD,
Electrical Section, Technical Education,
O/o Executive Engineer, DOTE Campus,
No.53, Sardar Patel Road, Guindy, Chennai 600 025.

10. E.Balan, Assistant Engineer, PWD,
Electrical Section, Town Section,
MW Coimbatore Medical College Hospital,
Coimbatore 641 018.

11. Anantharamakrishnan A.
Assistant Engineer, PWD,
Electrical Section, DPI, DPI Campus,
College Road, Nungmbakkam,
Chennai 600 034.

12. T.Saravanan, Assistant Engineer, PWD,
Electrical Section, High Court Campus of
Madurai Bench, Madurai 625 023.

13. R.Shanmuganathan, Assistant Engineer, PWD,
Electrical Section, (Technical Education),
Tamilnadu Polytechnic campus,
Madurai 625 011.

14. R.Manoharan, Assistant Engineer, PWD,
O/o Electrical Engineer, PWD,
Electrical Division, MW, CLC Colony,
Mannarpuram, Trichy-20.

15. T.Ayyanarappan, Assistant Engineer, PWD,
Electrical Section, DMS Campus,
Teynampet, Chennai-18.

... Respondents



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In W.A.No.1767 of 2008

Association of Engineers,
Tamil Nadu Public Works Department,
Fort St. George, Chennai 600 009.

... Appellant

Vs.

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

2. The Engineer in Chief W.R.O. &
Chief Engineer (General),
Public Works Department, Chepauk,
Chennai 600 005.

3. Tamil Nadu Engineering Association,
Public Works Department, Chepauk,
Chennai 600005.
Rep. by its General Secretary.

4. S.M.Muruganantam, Junior Engineer,
Lower Vaigai Basin Sub Division,
Thiruvadanai, Ramnad District.

... Respondents

PRAYER in W.A.No.949 of 2018: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by this Court dated 23.01.2018 in W.P.No.1301/2018.

PRAYER in W.A.No.1767 of 2018: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by this Court dated 23.12.2014 in W.P.No.21344 of 2007.



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In W.A.No.949/2018

For Appellants

: Mr.N.Subramaniyan

For Respondents

: Mr.R.Neelakandan, Addl.Adv.General

Assisted by Mr.M.Bindran,

Addl. Govt. Pleader for R1 and R2

Mr.R.Bharanidharan for R3

Mr.S.Namasivayam for R10

No appearance for Respondents 4,5, 7,8, 9,
12,13,14 and 15

Writ appeal dismissed against

Respondents 6 and 11, vide order dated

23.12.2022.

In W.A.No.1767/2018

For Appellant

: Mr.R.Prathap Kumar

For Respondents

: Mr.R.Neelakandan, Addl.Adv.General

Assisted by Mr.M.Bindran,

Addl. Govt. Pleader for R1 and R2

No appearance for Respondent-3

Respondent-4 - died.



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COMMON JUDGMENT

WEB COPY (Order of the Court was delivered by D.KRISHNAKUMAR, J.)

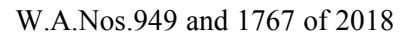
W.A.No.1767/2018

This Intra Court Appeal in W.A.No.1767 of 2018 has been filed by the Association of Engineers, Tamil Nadu Pubic Works Department, Chepauk, as against the order passed by the learned Single Judge in W.P.No.21344/2007 dated 23.12.2014.

2. The learned Single Judge has passed the common order in W.P.No. 21344/2007, along with W.P.No.11148/2007, which runs as follows.

22. For all the reasons stated above, both the writ petitions are allowed. The Official respondents are restrained from making further appointments to the post of Assistant Engineers from the category of Technical Assistants by way of recruitment by transfer unless and until the statutory rule is amended making the post o Technical Assistants also as a feeder category. So far as the position of private respondents 3 to 23 are concerned, they shall be permitted to continue as Assistant Engineers for a period of three months from the date of receipt of a copy of this order. In case, the rule is amended making the post of Technical Assistants as a feeder category for appointment to the post of Assistant Engineers, then, they shall not suffer any reversion and they will be allowed to continue as Assistant Engineers. In case, the Rule is not amended within three months or in case of earlier rejection of the proposal for inclusion of the post of Technical Assistant in the feeder categories, the private respondents shall be reverted back to their original post, namely Technical Assistants. No costs. Consequently, the connection miscellaneous petition is closed.

Though the writ petitions are allowed, this writ appeal has been filed as



3. The learned Additional Advocate General appearing for the respondents/Government submitted that, as against the order passed in the said W.P.No.11148/2007, the private respondents had filed W.A.No.82/2015; and the third parties also had filed W.A.No.95/2015, seeking leave of the Court, before the Division Bench of this Court, and a common judgment passed in W.A.Nos.82 & 95/2015, W.P.Nos.5249, 5811 & 5248/2022 and W.P.No.3617/2017, dated 03.08.2022, the Division Bench of this Court has allowed the above writ appeals and dismissed the writ petitions in W.P.Nos.11148/2007 and 23144/2007.



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4. He further submitted that, challenging the above order in W.A.No.82 & 95/2015 and 5251 of 2022, the Association of Engineers and others etc., had filed appeals in C.A.Nos.4886 to 4888/2023 before the Hon'ble Supreme Court and vide judgment dated 16.04.2024, the Hon'ble Supreme Court has dismissed the civil appeals, confirming the order passed by the Division Bench of this Court.

5. The learned Additional Advocate General further submitted that, inview of the order passed by the Hon'ble Supreme Court in the above Appeal in C.A.No.4886 to 4888/2023, dated 16.04.2024, the order passed by the Division Bench of this Court in W.A.No.82/2015 has become final and inview of the same, the order passed by the learned Single Judge is liable be set aside.

6. The learned counsel appearing for the appellant/Association has also not disputed the above facts.



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7. In the light of the order passed by the Hon'ble Supreme Court in C.A.No.4886 to 4888/2023, dated 16.04.2024, this writ appeal in W.A.No.1767 of 2018 is allowed and the order passed by the Writ Court is set aside.

W.P.No.949 of 2018

This Intra Court Appeal has been filed by the writ petitioners, as against the order passed by this Court in W.P.No.1301/2018, dated 23.01.2018.

8. The above writ petition in W.P.No.1301/2018 has been filed with the following prayer:

to quash the proceedings dated 24.02.2016 and consequently, direct the official respondent, not to treat the private respondents, as Assistant Engineers, appointed regularly and accordingly, to prepare the seniority list of Assistant Engineers as well as the Panel of Assistant Engineers fit for promotion to the category of Assistant Executive Engineer, without including the names of the private respondent.



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The Writ Court, has dismissed the above writ petition and challenging the same, the present Writ appeal in W.A.No.949/2018.

9. The learned counsel for the Additional Advocate General, submitted that, this matter is similar to the above said W.P.No.11148/2007. He further submitted that, in view of the findings made by the Division Bench of this Court in W.A.No.82/2015, setting aside the order passed in W.P.No.11148/2007; and also the decision of the Hon'ble Supreme Court in C.A.No.4886 to 4888/2023, dated 16.04.2024, confirming the order passed by the Division Bench of this Court, this writ appeal is liable to be dismissed.

10. The learned counsel for the appellants submitted that the writ petition in W.P.No.1301/2018 is distinguished from the above said writ petitions in W.P.Nos.11148/2007 and 23144/2007, and hence, the above decision of the Hon'ble Supreme Court will not apply to the present appeal. But, on perusal of the materials shows that the prayer sought for in W.P.No.1301/2018 is similar to the prayer as sought for in



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W.P.No.11148/2007. Further, it is agreed by the learned counsel for the appellants that the appellants/writ petitioners are also the members of the above said Association of Engineers, Tamil Nadu Public Works Department. In such circumstances, we are of the view that the order passed by the Hon'ble Supreme Court in C.A.No.4886 to 4888/2023, dated 16.04.2024 squarely apply to the facts and circumstances of the present case and hence, this writ appeal in W.A.No.949/2018 is liable to dismissed.

11. Accordingly, Writ Appeal in W.A.No.1767/2018 is allowed and the writ appeal in W.A.No.949/2018 is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

(D.K.K.J.)

(K.B.J.)

23.04.2024

Internet: Yes/No

Index : Yes/No

mst

1.The Secretary, Public Works Department,

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Government of Tamilnadu,
Secretariat, Chennai-9.

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2. The Engineer-in-Chief (Buildings) and
Chief Engineer (Buildings) Chennai Region cum
Chief Engineer General), Public Works Department,
Chepauk, Chennai-5.
3. The Tamilnadu Public Service Commission,
Rep. by its Secretary, Frazer Bridge Road,
Chennai 600 003.



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D.KRISHNAKUMAR, J.
and
K. KUMARESH BABU, J.

mst

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23.04.2024