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W.P.No.21156 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.21156 of 2022 and
W.M.P.Nos.20149 & 20151 of 2022

S.Sivakumar

... Petitioner

Vs.

1.The Chief Engineer,
Highways Department,
HRS Campus, No.76, Sardar Patel Road,
Little Mount, Guindy, Chennai 25.

2.The Divisional Engineer,
Highways Department C&M,
Dharmapuri.

3.The Assistant Engineer,
Highways Department C&M,
Palacode.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent confirming the punishment of 5 years stoppage of increment without cumulative effect by in his proceedings letter No.32/2021/A6, dated 08.10.2021 as being illegal and contrary to the Rule 17(b) of Tamil Nadu Services (Discipline and Appeal) Rules and to quash the same and consequently, direct the second respondent



to consider the reply filed by the petitioner on 26.07.2021 in those terms and issue consequential order for granting all service benefits to the petitioner.

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For Petitioner : Mr.D.Ramesh Kumar

For Respondents : Mr.R.U.Dinesh Rajkumar, AGP

ORDER

This Writ Petition has been filed for quashment of the impugned order passed by the 2nd respondent in his proceedings letter No.32/2021/A6, dated 08.10.2021 confirming the punishment of 5 years stoppage of increment without cumulative effect as being illegal and contrary to Rule 17(b) of Tamil Nadu Services (Discipline and Appeal) Rules and consequently, direct the second respondent to consider the reply filed by the petitioner on 26.07.2021 in those terms and issue consequential order for granting all service benefits to the petitioner.

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

3. The learned counsel for the petitioner submitted that the petitioner was appointed as Gang Mazdoor in the Highways Department in terms of



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G.O.Ms.No.371, Highways Department, dated 19.08.1997, on certificate verification and he joined duty on 11.11.1997. Thereafter, the petitioner completed his probation period. The next promotion to the petitioner is Road Inspector and the qualification prescribed for the Road Inspector is 10th Standard pass. As per G.O.Ms.No.193, Highways Department, dated 01.08.2008, a panel for promotion to the post of Road Inspector was prepared by the second respondent. On 15.02.2021, the second respondent in his proceedings letter No.32/2021/A6 had issued a Charge Memo to the petitioner stating that he had suppressed his actual qualification of 10th standard pass at the time of appointment. On receipt of the said Charge Memo, the petitioner gave his reply on 26.07.2021 explaining that he already produced mark sheet and the same was also registered in his service register. But the same was not considered and thereafter, the second respondent had passed an order for stoppage of increment for 5 years without cumulative effect. Hence, the learned counsel for the petitioner seeks to quash the impugned order and also to consider the reply filed by the petitioner.

4. The learned Additional Government Pleader appearing for the respondents submitted that the petitioner do not have any locus standi to file this petition, after having admitted all the charges with the Disciplinary



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Authority. When the petitioner has admitted the charges, further enquiry is unnecessary and questioning of petitioner also not required. The petitioner was appointed as Gang Mazdoor in the Highways Department and the prescribed qualification was pass in 5th standard with sound physique. But at the time of appointment, the petitioner has suppressed his actual qualification and mentioned as 10th standard fail. He also produced a letter of the petitioner dated 20.10.2021 which was addressed to the third respondent, admitting the charges against him.

5. In view of the submissions made by the learned Additional Government Pleader and on a perusal of the letter given by the petitioner to the third respondent dated 20.10.2021, it is seen that the petitioner has suppressed his actual qualification at the time of appointment and has also admitted the charges at the time of enquiry. Hence, this Court is of the considered opinion that the order of the 2nd respondent warrants no interference.

6. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.



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Index : Yes / No

Speaking order / Non-speaking order

To

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VIVEK KUMAR SINGH, J.

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