



REV. APLW.(MD) Nos.23 and 25 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.06.2024

CORAM:

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

REV. APLW.(MD)Nos.23 and 25 of 2024

REV. APLW.(MD)No.23 of 2024:

- 1.B.Velladurai
- 2.A.Madhavan
- 3.A.Arunachalam

... Petitioners

vs.

- 1.The Principal Secretary to the Government,
Highways and Minor Ports Department,
Secretariat, Fort Saint George,
Chennai-600 009.
- 2.The Chief Engineer,
Highways and Minor Ports Department,
Chepauk, Chennai – 600 005.
- 3.The Divisional Engineer,
Highways and Minor Ports Department,
Ettayapuram Road,
Thoothukudi District – 628 002.

... Respondents

Review Application is filed under Order 47 Rule 1 of Section 114 of C.P.C. to review as against the order made in Writ Petition(MD) No.3172 of 2009, dated 23.01.2023, by this Court.



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For Petitioners : Mr.K.Rajeshwaran
For Respondents : Mr.Vera Kathiravan
Additional Advocate General
assisted by Mr.C.Baskaran
Government Advocate

REV. APLW.(MD)No.25 of 2024:

B.Velladurai

... Petitioner

vs.

- 1.The Principal Secretary to the Government,
Highways and Minor Ports Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Chief Engineer,
Highways and Minor Ports Department,
Chepauk, Chennai – 600 005.
- 3.The Divisional Engineer,
Highways and Minor Ports Department,
Ettayapuram Road,
Thoothukudi District – 628 002.
- 4.C.Poolpandi,
Road Inspector Grade-II,
Highways Section,
(Construction and Maintenance),
Tuticorin District.
- 5.S.Rengaraj,
Road Inspector Grade-II,
Highways Section,
(Construction and Maintenance),
Vilathikulam, Tuticorin District.



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6.S.Kannan,
Road Inspector Grade-II,
Highways Section,
(Construction and Maintenance),
Vilathikulam, Tuticorin District.

7.N.Subramanian,
Road Inspector Grade-II,
Highways Section,
(Construction and Maintenance),
Sathankulam, Tuticorin District.

8.U.Murugan,
Road Inspector Grade-II,
Highways Section,
(Construction and Maintenance),
Sathankulam, Tuticorin District.

Respondents

...

Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. to review as against the order made in Writ Petition in W.P.(MD) No.9954 of 2016, dated 23.01.2023, by this Court.

For Petitioners : Mr.K.Rajeshwaran

For R1 to R3 : Mr.Vera Kathiravan
Additional Advocate General
assisted by Mr.C.Baskaran
Government Advocate

For R4 to R8 : Mr.S.C.Herold Singh



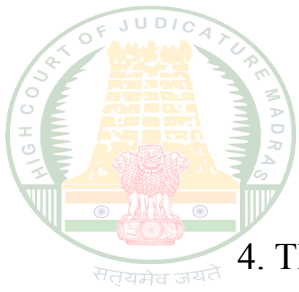
COMMON ORDER

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The review applications are filed by the writ petitioners against the order passed in W.P.(MD)Nos.3172 of 2009 and 9954 of 2015 respectively. Both the writ petitions were filed challenging the impugned order dated 03.10.2008 and dated 30.05.2014, both the writ petitions were disposed of by common order directing the respondents to consider the case of the petitioners after affording opportunity to the petitioners and to fix the seniority and to grant notional promotion with consequential benefits to the petitioners.

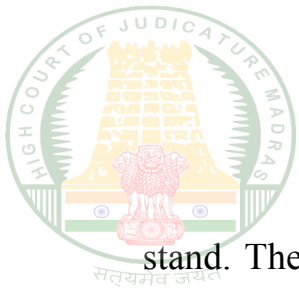
2. The writ petitioners had filed contempt petition alleging disobedience of the order passed by this Court. When the contempt petition was taken up, the respondents submitted the private respondents were subsequently granted the same seniority in the list. However, there were no vacancies to accommodate the petitioners.

3. In the meanwhile, the writ petitioners filed the present review applications stating if the impugned orders challenged in the writ petitions are set aside, then only the petitioner would be accommodated in the earlier vacancies.



4. The official respondents in the review applications submitted that apart from the said 5 vacancies, only 1 vacancy was available. In the said one vacancy, based on the seniority list one promotion was granted to Poolpandi. Subsequent to Poolpandi, the petitioners 1 to 3 are placed in Serial Nos.17, 22 and 26 respectively. Prior to Serial No.17, three persons are available namely, Madasamy Backiaraj, and Irudhayaraj. When there is no vacancy, the petitioners could not be accommodated, hence they cannot claim promotion.

5. At the time of hearing the writ petition, while considering the claim of the petitioners, this Court categorically rendered a finding that the respondents had misunderstood that the entire promotion was stayed by the Court, when the private respondents challenged the disciplinary proceedings pending against them. This Court further held that when there is no stay, based on the available vacancy, the petitioners ought to be accommodated. Now the respondents expressed a difficulty that until and unless the impugned orders in the writ petitions are quashed or set aside, the petitioners could not be accommodated. This Court has held that the impugned orders in the writ petitions are erroneous, therefore the impugned orders ought to be treated as set aside, since erroneous orders cannot have legal strength to



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stand. The respondents have misunderstood the orders were not quashed, since the word “quashed” is not in the order of this Court. Hence it is made clear that the impugned orders dated 03.10.2008 and 30.05.2014 passed by the respondents are hereby quashed. With the above observations, the review applications are allowed.

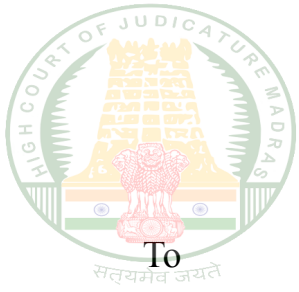
6. As far as the promotion to the petitioners is concerned, since the impugned orders challenged in the writ petitions, dated 03.10.2008 and 30.05.2014 are quashed, consequently the respondents shall grant promotion to the petitioners in the vacancies which was available from 31.10.2008. However, the petitioners are not entitled to any monetary benefits but the service benefits and seniority shall be granted to the petitioners from the said date.

7. With the above said observations, the Review Applications stands allowed and the order passed in the writ petitions are modified to the extent stated supra. No costs.

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To

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