



W.A(MD)No.214 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.07.2024

CORAM :

JUSTICE N.SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A(MD)No.214 of 2020

and CMP(MD)Nos.1440 and 1442 of 2020

1.A.Gnanamani

2.L.Dharmalingam

... Appellants/Petitioners

Vs.

1. State of Tamil Nadu,
Rep. By its Secretary to Government,
Highways & Minor Ports Department,
St.George Fort,Chennai - 9.

2.The Member Secretary,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road,
V.O.C.Nagar, Park Town,Chennai – 3.

3.The Director General (High Ways),
Highways Department,
Sardar Patel Road,HRS Campus,
Guindy, Chennai – 25.

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letter Patent as against the order passed by this Court dated 06.01.2020 in W.P(MD)No. 13408 of 2019 on the file of this Court.

For Appellants	: Mr.T.Alwin Rajasimman
For R1 & R3	: Mr.R.Baskaran Additional Advocate General Assisted by Mr.A.Baskaran Additional Government Pleader
For R2	: Mr.J.Anandakumar



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J U D G M E N T

WEB COPY[Judgment of the Court was delivered by **N.SESHASAYEE, J.**]

This appeal is directed against an order dismissing W.P(MD)No.13408 of 2019 which the learned single Judge has dismissed along with W.P(MD)No.7139 of 2018, vide her common order dated 06.01.2020.

2. The appellants instituted the said writ petitions seeking to quash notification Nos. 05/2018 dated 28.02.2018 and 18/2019 dated 29.05.2019, issued by the Tamilnadu Public Service Commission, the 2nd respondent, alleging that it contravenes the Government Order in G.O. (Ms.)No.82, Highways & Minor Ports Department, dated 08.05.2012.

3. At the relevant time, the appellants were working as Junior Drafting Officers in Highways Department. While so, applications are invited for 123 posts of Assistant Engineer. According to the appellants, as per Tamilnadu Engineering Service Rule, the combined cadre strength of the Assistant Engineer and Junior Engineer is fixed at 972 posts, and in terms of G.O.(Ms.) No.82, dated 08.05.2012, 75% thereof shall be earmarked for Assistant Engineer and the remaining 25% shall be earmarked for the Junior Engineer. The Assistant Engineer posts are



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filled up by direct recruitment as well as by promotion from the Junior Engineer and also by transfer from other Departments.

4. This petition was resisted by the 2nd respondent, TNPSC by contending that G.O.(Ms.)No.82, dated 08.05.2012, has made only recommendation for bringing about amendment to Rule 18(a) of the Special Rules for the Tamilnadu Engineering Service, and that it has not been brought into force.

5. The learned single Judge has noted that by issuing amended draft rule in G.O.Ms.No.82, Highways and Minor Ports Department dated 08.05.2012, the first respondent has fixed the cadre strength accruing every year in both cadres of Assistant Engineer and Junior Engineer in the ratio of 75:25 respectively as per Rule 18(a) of the Special Rules for the Tamilnadu Engineering Service. However, inasmuch as this intended amendment has not been carried out, only the vacancies are now filled up in the ratio 75:25 as per Rule 18(a) of the Special Rules for the Tamilnadu Engineering Service. The appellants' challenge to the notifications inviting application for the post of Assistant Engineer by direct recruitment must therefore, be seen in the context.



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6. As indicated earlier, the foundation for their cause of action is G.O. (Ms.)No.82, dated 08.05.2012, but this is a recommendation, which has yet to be translated into amendment and indeed, the order of the learned single Judge indicated that there is even a proposal for withdrawal of this Government Order. The present notifications are for the year 2018-2019 and this Court is informed that the vacancies have been filled up in terms thereof.

7. Now turning to the grievance of the appellants, at the relevant time they were working as the Junior Drafting Officers and therefore, they will become Junior Engineers and not Assistant Engineers, whereas the notifications deal with the appointment to the post of the Assistant Engineers. Therefore, the anxiety of the appellants is one stage too early.

8. The learned counsel for the appellants submits that the appellants have since been promoted as Junior Engineers on 07.02.2024, they have preferred representations for implementation of Rule 18(a) of the Special Rules for the Tamilnadu Engineering Service and to grant them notional promotion.



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9. Turning to the merit of this appeal, as indicated earlier, when the notifications were issued, the appellants were working as the Assistant Drafting Officer. They may not have an immediate *locus* to challenge the notifications. Again, as indicated earlier, they appeared to have been entertained a misconception that part of the posts which would have been available for Junior Engineers in the total cadre strength is being taken away and added to the Assistant Engineer posts but this is not demonstrated.

10. In view of the same, this Court does not find merit in the appeal. So far as the representations dated 29.06.2024 are concerned, which the appellants claim, the respondents may consider the same but strictly in accordance with the rules applicable.

11. In the result, this appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(N.S.S., J.) (P.V.M., J.)
08.07.2024

Index : Yes / No
Neutral Citation : Yes / No
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