



W.P.(MD).No.2667 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.2667 of 2024

and

W.M.P.(MD)No.2677 of 2024

1. R.Manimaran

2. S.Ravikumar

... Petitioners

Vs.

1.The Director General,
Highways Department,
Chennai-600 026.

2. The Divisional Engineer,
Highways Construction and Maintenance
Department,
Madurai.

3.The Divisional Engineer,
Highways Constrution and Maintenance
Department,
Trichy.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from appointing any persons to the post of Assistant Draughtsman, without considering the eligibility and qualification of the petitioners for the post of Assistant Draughtsman by transfer of service by considering the representation of the petitioner dated 04.12.2023.

For Petitioners : Mr.G.Prabhu Rajadurai

For Respondents : Mr.J.John Rajadurai,
Government Advocate

ORDER

The present writ petition has been filed forbearing the respondents from appointing any persons to the post of Assistant Draughtsman, without considering the eligibility and qualification of the petitioners for the post of Assistant Draughtsman by transfer of service by considering the representation of the petitioner dated 04.12.2023.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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3. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

(i) The 1st petitioner was appointed as Gang Mazdoor in the 2nd respondent division in the year 1997. The 2nd petitioner was appointed as Gang Mazdoor in the 3rd respondent division in the year 2008, . Thereafter, they rendered the service in the said capacity as Gang Mazdoor for the past 26 years without any promotion. In view of their stagnation in the post of Gang Mazdoor, they pursued Diploma in Civil Engineering in the year 2019 and 2020 respectively. Earlier the 1st respondent, vide proceedings, dated 17.11.14 permitted such transfer of service for the post of Gang Mazdoor to the post of Assistant Draughtsman with respect to the persons who were having the required qualification. Accordingly, vide proceedings, dated 12.04.2015 and 12.08.2015 incumbents in the post of Gang Mazdoor were benefited and thereby transferred to the service of Assistant Draughtsman in view of their qualification. Similarly, even in the year 2023, vide proceedings, dated 23.12.2023 similar treatment was adopted and thereby persons with qualification of graduation were promoted to the post of Junior Engineer.



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(ii) Though the petitioners are qualified with the Diploma, they were not considered. Hence, a representation was made on 04.12.2023 by reiterating the aforesaid grievances and requested for promotion to the post of Junior Drafting Officer in the light of the earlier proceedings of the 1st respondent in effecting transfer of service in respect of incumbents in the post of the gang mazdoors in view of their qualification. Since the same was not considered by the respondents, the present Writ Peition came to be filed.

4. Heard, the learned Counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents. Perused the materials available on record.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would



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amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

6. It is made clear that without going into the merits of this case, this Court hereby direct the respondents to consider the representation of the petitioners dated 04.12.2023 and pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml



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L.VICTORIA GOWRI, J.

Sml

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