



W.A.(MD)No.145 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.09.2024

PRONOUNCED ON : 22.10.2024

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.(MD)No.145 of 2021

and

C.M.P.(MD)No.427 of 2021

1.State of Tamil Nadu,
represented by its Principal Secretary Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Municipal Administration,
Urban Administration Office Complex,
9th and 10th Floor, 75, Santhome High Road,
Raja Annamalaipuram, Chennai – 600 028.

3.The Director of Town Panchayats,
Urban Administration Office Complex,
9th and 10th Floor, 75, Santhome High Road,
Raja Annamalaipuram, Chennai – 600 028.

... Appellants

vs

1.K.Gopi
2.S.Karuppiah
3.R.Janarthanan Prabu
4.U.Chandramohan

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- 5.N.Sridharan
- 6.E.Mariyappan
- 7.M.Kalaignanasundaram
- 8.S.Singarayar
- 9.S.Thomas Anand
- 10.G.P.Ravichandar
- 11.D.Rajajayaboopalan
- 12.N.Vijayakumar
- 13.M.Avudaipandi
- 14.S.Sethuramalingam
- 15.M.Manickam
- 16.C.Poosamy
- 17.M.Palani
- 18.K.Sivakumar
- 19.N.Palani
- 20.V.Sundaram
- 21.K.Manimudayan
- 22.C.Sembandamoorthy
- 23.R.T.Saravanan
- 24.M.Seerpadhavelan
- 25.K.V.Baskaran
- 26.N.Prabhakaran
- 27.P.Nalini
- 28.B.Gomathi Sankar
- 29.C.Venkatesan
- 30.R.Ganapathy Venkatesan
- 31.N.Annam
- 32.R.Rajkumar
- 33.R.Jayakumar
- 34.E.Geetha
- 35.R.S.Venkatachalam
- 36.M.Shanmugam

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 27.11.2019 passed in W.P(MD)No.23652 of 2019.



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For Appellants : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.M.Senthil Ayyanar
Government Advocate
For R1 to R25 : Mr.G.Thalaimutharasu

JUDGMENT

(Judgment of this Court was delivered by **C.V.KARTHIKEYAN, J.**)

The 1st, 2nd and 3rd respondents in W.P.(MD)No.23652 of 2019 aggrieved by the order dated 27.11.2019 of the learned Single Judge allowing the said Writ Petition filed by the 1st to 25th respondents herein, have filed the present Writ Appeal.

2.The Writ Petition had been filed in the nature of a Certiorarified Mandamus seeking records of the second respondent in the Writ Petition/the Commissioner of Municipal Administration, Urban Administration Office Complex at Chennai, in connection with two impugned proceedings issued in ROC.No.98/2019/F-2 dated 30.10.2019 and quash both proceedings with respect to the sending of 4th to 13th respondents in the Writ Petition on deputation to 3rd respondent department, namely, the Director of Town



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Panchayats, Urban Administration Office Complex, Chennai, as illegal and without jurisdiction and to direct the 1st to 3rd respondents in the Writ Petition to consider the case of the eligible Overseers working in the 3rd respondent in the Writ Petition for promotion to the post of Junior Engineer/Assistant Engineer in the vacancies available within a time limit.

3.In effect, it had been claimed that the Writ Petitioners and 4th to 13th respondents should be promoted as Junior Engineer/Assistant Engineer in the existing vacancies in the office of the Commissioner of Municipal Administration and should not be sent on deputation to the Director of Town Panchayats.

4.The Writ Petitioners and the 4th to 13th respondents in the Writ Petition were working as Overseers in various Town Panchayats under the control of the 2nd respondent in the Writ Petition, Commissioner of Municipal Administration. They were eligible to be promoted as Junior Engineer/Assistant Engineer in various Town Panchayats. However, they were directed to be deputed to the Director of Town Panchayats. Similarly placed Overseers had filed W.P.(MD)No.3782 of 2018 before this Court



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and had obtained an order of interim stay by order dated 23.02.2018. There were other Writ Petitions in W.P.Nos.10804 to 10899 of 2019 filed before the Principal Seat.

5.It had been contended that a Division Bench of this Court in W.A. (MD)No.1136 of 2013 etc., batch by judgment dated 13.03.2014 held that the Tamil Nadu Municipal Engineering Subordinate Service Rules, 1970, is not applicable to Town Panchayats and had therefore, directed the first respondent in the Writ Petition, namely, Principal Secretary to Government, Municipal Administration and Water Supply Department, to consider and approve the draft rules sent by the third respondent in the Writ Petition.

6.The learned Single Judge while examining the Writ Petition had observed that since the draft rules had been forwarded for consideration, there was absence of Rules and therefore, the Municipal Engineering Rules were not applicable to the Writ Petitioners or to the 3rd to 14th respondents and that owing to deputation, the promotional opportunities of the Writ Petitioners and of the 4th to 13th respondents in the Writ Petition were directly affected and had allowed the Writ Petition. In effect, it would



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indicate that the Writ Petitioners and the 4th to 13th respondents in the Writ Petition should be considered for promotion as Junior Engineer/Assistant Engineer in the existing vacancies and should not be deputed to the Director of Town Panchayats. Questioning that particular order, the present Writ Appeal had been filed.

7.One of the main grounds urged by the learned Additional Advocate General was that the draft rules of Tamil Nadu Panchayats Engineering Service Rules had not been approved by the Government owing to clarifications to be received and concurrence of advisory departments, like, TNPSC, Finance, Personnel and Administrative Reforms etc. However, it is not denied or disputed that in compliance of the order of the learned Single Judge, the Writ Petitioners and the 4th to 13th respondents in the Writ Petition have actually been promoted as Junior Engineer/Assistant Engineer in accordance with their qualification.

8.It is also not in dispute that as on date the Rules have also been framed and the Rules which were indicated as draft rules have also been approved and published in Tamil Nadu Government Gazette. Since the



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Rules have been approved and published, the employees will have to be afforded the promotional avenues as stipulated in the said Rules.

9.The Tamil Nadu Urban Local Bodies Rules, 2023, with respect to the Municipal Administration and Water Supply (Election) Department and in accordance with G.O.(Ms)No.45, Municipal Administration and Water Supply (Election) Department, dated 12.04.2023 had been published in the Tamil Nadu Government Gazette Extraordinary in Part-III-Section 1(a), dated 12.04.2023. It had been notified under the powers conferred by Section 198 of the Tamil Nadu Urban Local Bodies Act, 1998 (TN Act 9 of 1999). According to the said rules, with respect to Tamil Nadu Panchayat Engineering Wing, the post of Assistant Engineer/Junior Engineer should be appointed in accordance with the following Table:

“TABLE II.

2. TOWN PANCHAYAT ENGINEERING WING

Sl. No.	Name of the Post	Method of Appointment	Qualification
(1)	(2)	(3)	(4)



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1.	Assistant Engineer	(1) By direct recruitment; and	Must possess B.E. degree in Civil Engineering or Mechanical Engineering or Electrical Engineering or any other qualification considered equivalent thereto awarded by any recognized University or Institution
		(2) By promotion from among the holders of the posts of Junior Engineer: Provided that the appointment by direct recruitment and by promotion shall be made in the ratio 3:1.	(1) Must have passed the Account Test for Public Works Department Subordinate Officer Part I and Part II; and (2) Must have rendered service as Junior Engineer for a period of not less than five years.
2.	Junior Engineer	By promotion form among the holders of the post of Overseer.	Must have rendered service as Overseer for a period of not less than three years.”

10. There is no dispute raised that the Writ Petitioners and the 4th to 13th respondents in the Writ Petition have already been promoted. The learned Additional Advocate General however sought to widen the scope of the Writ Appeal by pointing out the eligibility of the Writ Petitioners and the 4th to 13th respondents in the Writ Petition to be so promoted. But the promotion has now become a *fait accompli*. The ground raised in the Writ Appeal that the draft rules have not been approved does not hold water any more in view of the notification of the rules in the Government Gazette and



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its implementation in letter and spirit.

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11.In view of that particular fact, we hold that the Writ Appeal is only an exercise in futility and we accordingly dismiss the Writ Appeal. However, there will be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[C.V.K., J.] & [J.S.N.P., J.]
22.10.2024

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

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AND

J.SATHYA NARAYANA PRASAD, J.

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Judgment made in
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22.10.2024