



W.P.(MD)Nos.15616 to 15646 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)Nos.15616 to 15646 of 2024

W.P(MD)No.15616 of 2024:

V.Shanmuganathan

... Petitioner

Vs.

1. The Secretary to the Government,
Government of Tamilnadu,
Highways and Minor Ports Department,
Secretariat,
Chennai - 600 009.

2. The Secretary to the Government of Tamil Nadu,
Rural Development and Panchayat Department,
Secretariat, Chennai - 600 009.

3. The Director General,
Highways Department,
H.R.S.Campus, Guindy,
Chennai - 600 015.



W.P.(MD)Nos.15616 to 15646 of 2024

4. The Director of Rural Development and Panchayat Department,
Panagal Building,
Saidapet,
Chennai - 600 015.

5. Divisional Engineer (Highways) (Construction and Maintenance),
Divisional Engineer Office,
Pandiyar Nagar,
Dindigul,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 5th respondent in Na.Ka.No.632/2023/A2 dated 28.02.2024 in respect of the claim of promotion of the petitioner as per revised G.O.Ms.No.856 (PWD) dated 01.06.1977 and consequential monetary benefits as illegal and quash the same and consequently directing the respondents to revise his first promotion as per revised G.O.Ms.No.856 (PWD) dated 01.06.1977 and allow him to get consequential monetary benefits.



W.P.(MD)Nos.15616 to 15646 of 2024

In all Writ Petitions

For Petitioners : Mr.N.Tamilmani

For Respondents : Mr.VeeraKathiravan

Additional Advocate General

assisted by Mr.S.Shanmugavel

Additional Government Pleader

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, these writ petitions are disposed of, by way of this common order.

2. Heard Mr.N.Tamilmani, learned counsel appearing for the petitioners, Mr.VeeraKathiravan, learned Additional Advocate General assisted by Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the respondents.

3. The petitioners have filed these writ petitions seeking to challenge the order, dated 28.02.2024, through which the petitioners' representations to consider their promotion to be given with retrospective effect in terms of G.O.Ms.No.856 (PWD) dated 01.06.1977, were rejected.



W.P.(MD)Nos.15616 to 15646 of 2024

WEB COPY

4. The learned counsel for the petitioners submitted that the similarly placed persons have been given with the benefit of promotion with retrospective effect and hence, the same benefits have also to be extended to the petitioners as well.

5. In fact, the petitioners have been given with the promotion to the post of Road Inspector Grade-I in the year 1988, however, the contention of the petitioners is that the Government Order which was in force during the relevant point of time i.e., G.O.Ms.No.856 dated 01.06.1977 was not followed in order to give them better benefit. Instead they have been given with the promotion to the post of Road Inspector Grade-I in terms of earlier Government Order in G.O.Ms.No. 1958 dated 22.10.1969.

6. It is further submitted that earlier, the Association filed a similar petition seeking similar relief in W.P.(MD)No.5696 of 2020 and the same was dismissed by giving liberty to the individual to give representation to the authorities within a period of two weeks from the date of the order of the above writ petition. Accordingly, these



W.P.(MD)Nos.15616 to 15646 of 2024

petitioners have given representations, but the same were rejected. So, the petitioners have filed these writ petitions challenging the same with consequential direction.

7. The learned Additional Advocate General submitted that the petitioners who have been given with Road Inspector Grade-I promotion have not chosen to challenge their promotion order. Instead they waited until 32 years to seek promotion with retrospective effect. It is further submitted that the promotion was given to the petitioners on 01.01.1988 to the post of Road Inspector Grade-I. Thereafter, the petitioners have been given with Selection Grade and Special Grade in the same post and they have been allowed to retire on 30.04.2024 and until that time, the petitioners did not challenge the promotion.

8. Similarly such persons have already filed W.P.(MD)Nos. 7738 to 7749 of 2008, in which, an order came to be passed on 12.12.2012. In the said writ petitions it is ordered to give the benefit of G.O.Ms.No.856 dated 01.06.1977 to the petitioners and thereby, the petitioners were allowed to be granted with the retrospective notional



W.P.(MD)Nos.15616 to 15646 of 2024

WEB COPY

effect from the date of completion of five years of service in Grade-II Road Inspector. The Writ Appeal filed by the Government challenging the above order, was withdrawn. As the matter has not been agitated on merits and allowed to be withdrawn, in view of the pending contempt proceedings, Special Leave Petition (SLP) has been filed to challenge the order passed in the writ petitions and the same also withdrawn. It is understandable that the Government has complied with the orders by issuing G.O.Ms.No.58 Highways and Minor Ports (HR1) Department, dated 16.03.2018 by extending the same benefit to the petitioners in the above writ petitions i.e., W.P.(MD)Nos.7738 to 7749 of 2008 of 2008 and granted them the benefit.

9. Now, the petitioners claim that they also fall on the similar line and hence, the above benefit has to be given to them also. Admittedly, the petitioners were not parties to the alleged petitions filed in W.P.(MD)Nos.7738 to 7749 of 2008. Until the matter had reached the level of filing S.L.P and taken the shape of the Government Order in G.O.Ms.No.58 Highways and Minor Ports (HR1) Department, dated 16.03.2018, the petitioners did not figure anywhere.



W.P.(MD)Nos.15616 to 15646 of 2024

WEB COPY

10. Subsequently, the Association has filed a Writ Petition in W.P(MD)No.5696 of 2020 for the same relief and that was dismissed, however, by giving liberty to the individuals to give representation to the authorities concerned. While considering the same, the impugned order came to be passed on the observation that the promotion will not be given automatically even if someone has completed 5 years of service in Grade-II, since the Grade-I Road Inspector post is a selection category post.

11. Even G.O.Ms.No.856, dated 01.06.1977 would also state that the promotion would be given only on merit and ability and seniority will be considered when the merit and ability are approximately equal. In fact, the Government Order has been passed for complying the earlier orders passed by this Court in W.P.(MD)Nos.7738 to 7749 of 2008 and it is also observed that the Government order has been issued by considering the cases as a special case and the orders passed by the Government through the above G.O.Ms.No.58, dated 16.03.2018 shall not be quoted as a precedent and that it will not be applicable to any other person.



W.P.(MD)Nos.15616 to 15646 of 2024

WEB COPY

12. In fact, those petitioners who have filed the Writ Petitions in W.P.(MD)Nos.7738 to 7749 of 2008 have also retired from service in the year 2005. Even though the similar persons have knocked the doors of the Court in the year 2008 itself, the petitioners have watched the proceedings as fence sitters and did not come to the Court. Later, in the years 2018 and 2022, the Association filed Writ Petitions and that were also not allowed and after a lapse of 32 years from getting the promotion from the year 1988, the petitioners have come forward with these writ petitions saying that the delay involved in this matter has already been condoned in view of the liberty given to the petitioners in the earlier writ petition filed by the Association in the year 2018.

13. But the petitioners cannot think that liberty given to give representation itself would be sufficient to get the benefit without the representation is considered on merits. The delay is still hanging on them because the petitioners are answerable, as to how they have been acquiesced to promotional order which was granted to them in the year 1988 and they did not choose to challenge the same. Even when their colleagues



W.P.(MD)Nos.15616 to 15646 of 2024

in their individual capacities have filed the earlier writ petitions in W.P. (MD)Nos.7738 to 7749 of 2008, these petitioners were silent and they did not have any inclination to challenge anything including their seniority which alleged to roll back to the year 1983. Now, at this stretch of time, the petitioners filed these writ petitions claiming that their merits and ability should be taken into consideration from the year 1983, which is not possible.

14. As G.O.Ms.No.856, dated 01.06.1977 itself has stated that the seniority will be considered only when merit and ability are approximately equal, the petitioners cannot expect to pass an automatic order without considering the merits of their claim. Further, in the Government Order which has been passed by way of complying the earlier orders passed by this Court in W.P.(MD)Nos.7738 to 7749 of 2008, it is specifically mentioned that the cases of those petitioners are unique and special and that cannot serve as a precedent.

15 Hence, the petitioners have to stand on their own legs to prove the merit of their claim and cannot cite the earlier Government



W.P.(MD)Nos.15616 to 15646 of 2024

WEB COPY

Orders or the orders obtained by the other petitioners who have filed writ petition in the year 2008 as a precedent. Since the petitioners have been quietly enjoying whatever benefits have been granted to them from the year 1988 and got the selection grade and special grade attached to Grade-I Road Inspector Post and allowed to retire in the year 2005 and thereafter, did not choose to participate in any litigation filed by their former colleagues in the year 2008, cannot be allowed rack up the matter by claiming that they are entitled to get the benefits of promotion with retrospective effect in view of G.O.Ms.No.856 dated 01.06.1977.

16. In view of the above stated reasons, these writ petitions are dismissed. No costs.

15.07.2024

NCC :yes/no

Index :yes/no

Internet:yes/no

RM



W.P.(MD)Nos.15616 to 15646 of 2024

WEB COPY To

1. The Secretary to the Government,
Government of Tamilnadu,
Highways and Minor Ports Department,
Secretariat,
Chennai - 600 009.
2. The Secretary to the Government of Tamil Nadu,
Rural Development and Panchayat Department,
Secretariat,
Chennai - 600 009.
3. The Director General,
Highways Department,
H.R.S.Campus,
Guindy,
Chennai - 600 015.
4. The Director of Rural Development and Panchayat Department,
Panagal Building,
Saidapet,
Chennai - 600 015.
5. Divisional Engineer (Highways) (Construction and Maintenance),
Divisional Engineer Office,
Pandiyan Nagar,
Dindigul,
Dindigul District.



WEB COPY



W.P.(MD)Nos.15616 to 15646 of 2024

R.N.MANJULA, J.

RM

W.P.(MD)Nos.15616 to 15646 of 2024

15.07.2024