



W.P.No.16597 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
10.12.2024	03.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.16597 of 2015

and

M.P.Nos.2 & 3 of 2015 & W.M.P.No.3453 of 2025

Engineering Diploma Association
(Registration No.148/10)
No.2/109/1, Rajakkapatti
Collectorate Post, Dindigul-624 004
rep.by its Secretary
S.B.Mathivanan

... Petitioner

-VS-

1.The State of Tamil Nadu
rep.by its Agricultural
Production Commissioner &
Secretary to Government
Agriculture Department
Secretariat, Fort St.George
Chennai-600 009

2.The Chief Engineer
(Agricultural Engineering)
No.487, Anna Salai
Nandhanam
Chennai-600 035



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4.The Engineering Graduates Association
Tamil Nadu Agricultural Engineering Department
rep.by its Central Secretary
No.487, Anna Salai, Nandanam
Chennai-600 035

5.M.Prince Muthuraj

6.S.Muniappan

7.S.Sukumar

...

Respondents

[R5 to R7 are impleaded as per
order dated 05.12.2024 in
W.M.P.No.23609 of 2024]

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a writ of certiorari to call for the records relating to the impugned
Government order issued by the first respondent in Letter
No.34437/AA.3/2013-5, dated 24.03.2015 and to quash the same.

For Petitioner : Mr.G.Sankaran, Senior Counsel
assisted by Mr.S.Nedunchezhiyan

For Respondents : Mr.R.Ramanlal
Additional Advocate General
assisted by Mr.T.Arunkumar
Additional Government Pleader for R1 & R2
Mr.N.Subramaniam for R4
Ms.T.Aananthi for R5 to R7

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The petitioner herein, which is an Association of Diploma Engineers appointed as Junior Engineers in the Tamil Nadu Agricultural Subordinate Service (hereinafter, referred to as "the Subordinate Service"), has filed this writ petition challenging the clarification issued by the first respondent, through Letter No.34437/AA.3/2013-5, dated 24.03.2015.

2. The brief and undisputed facts that are relevant for disposal of the present writ petition are as under:

2.1. The members of the petitioner – Association are the persons working as Junior Engineers (Agricultural Engineering) in the Subordinate Service. The said Junior Engineers, on acquiring a degree qualification, are entitled for re-designation as Assistant Engineers (Agricultural Engineering), which is in Class-V of the Tamil Nadu Agricultural Engineering Service (hereinafter, referred to as “the State Service”) from the date following the last date of examination. The seniority of the re-designated Assistant Engineer on acquiring a degree qualification in the cadre of Assistant Engineer in the State Service is governed by Rule 6A of the Tamil Nadu Agricultural Engineering Service (hereinafter,



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2.2. Rule 2(b) of the State Service Rules provides for a ratio for promotion to the post of Assistant Executive Engineer i.e., Class-IV of the State Service among the directly recruited Assistant Engineers, re-designated Assistant Engineers and from the holders of the post of the Junior Engineer in the the Subordinate Service and in the order of rotation provided under the said Rule 2(b) of the State Service.

2.3. Prior to the issuance of the impugned clarification, the Junior Engineers, who were re-designated as Assistant Engineers, on acquiring a degree qualification, were considered for promotion to the post of Assistant Executive Engineer against the quota earmarked for the post of Assistant Engineer as well as the quota earmarked for the post of Junior Engineer of the Subordinate Service, whichever turn comes up for consideration first.



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2.4. By virtue of the impugned clarification issued by the first respondent, the said procedure was dispensed with and the cases of the re-designated Assistant Engineers were directed to be considered only against the quota earmarked for the Assistant Engineers of the State Service. It is aggrieved by the said clarification, the petitioner – Association has filed the present writ petition.

3. Heard Mr.G.Sankaran, learned Senior Counsel, assisted by Mr.S.Nedunchezhiyan, learned counsel for the petitioner, Mr.R.Ramanlal, learned Additional Advocate General, assisted by Mr.T.Arunkumar, learned Additional Government Pleader for the respondents 1 & 2, Mr.N.Subramaniam, learned counsel appearing for the fourth respondent and Ms.T.Aananthi, learned counsel appearing for the respondents 5 to 7.

4. Mr.G.Sankaran, learned Senior Counsel, appearing for the petitioner – Association, by placing reliance on a decision of the Honourable Apex Court in the case of ***B.Thirumal vs. Ananda Sivakumar***, reported in ***(2013) 8 MLJ 479(SC)***, contended that the re-designation of Junior Engineers, on acquiring a degree qualification, as Assistant Engineers will not have the effect of conferring the benefit of



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promotion or the same can be treated as appointment by transfer and therefore, the lien of the re-designated Assistant Engineer would continue to operate in the post of Junior Engineer and therefore, the Junior Engineers are entitled for consideration of their case for promotion to the post of Assistant Executive Engineer, which is in Class-IV of the State Service from the cadre of Assistant Engineer by virtue of their re-designation as well as from the cadre of Junior Engineer as is being followed by the respondent – Department as a matter of convention for the last several decades.

5. Learned Senior Counsel also placed strong reliance on Paragraph No.22 of the said decision, which reads as under:

"22. The upshot of the above discussion is that the degree holder Junior Engineers continue to be members of the Subordinate Engineering Service even after they are redesignated as Assistant Engineers upon them getting a degree qualification. They can, therefore, be considered only against the 25% quota reserved for the Subordinate Service and not against 75% reserved for the State Service members directly recruited to that service or appointed by transfer in terms of the Rules. To the extent the redesignated Assistant Engineers have been considered in the past for promotion in the



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quota reserved for Assistant Engineers in the State Service, the consideration was legally bad. Having said that, we do not propose to interfere with what has been done in the past especially when there is no challenge before us to the appointment of the re-designated Assistant Engineers as Assistant Executive Engineers against vacancies falling in 75% quota. The settled position need not, therefore, be unsettled at this stage in these proceedings. With the above observations and clarification these appeals fail and are hereby dismissed, but in the circumstances without any orders as to costs."

6. Learned Senior Counsel also further contended that mere re-designation of the Junior Engineer as Assistant Engineer, on acquiring a degree qualification, will not have any effect on the duties to be performed by the Junior Engineer nor the post of Junior Engineer would fall vacant and there is no change in the cadre strength of the Junior Engineer or the Assistant Engineer and the entire cadre strength for both Junior Engineer and Assistant Engineer in the State Service as well as in the Subordinate Service would remain static and therefore, the service rendered by the Junior Engineers is also liable to be taken into consideration for the purpose of considering their case for promotion to the post of Assistant Executive Engineer. Thus, the learned Senior Counsel



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contended that the respondent – Department having followed a particular procedure i.e. considering the case of the re-designated Assistant Engineer both against the quota earmarked for Assistant Engineer as well as the quota earmarked for Junior Engineer is in accordance with law and by virtue of the impugned clarification, the same is being dispensed with causing great prejudice to the re-designated Assistant Engineers.

7. On the other hand, Mr.R.Ramanlal, learned Additional Advocate General, assisted by Mr.T.Arunkumar, learned Additional Government Pleader appearing for the respondents 1 & 2 and Mr.N.Subramaniam, learned counsel appearing for the fourth respondent, contended that the re-designated Assistant Engineer is not entitled to continue lien in both the posts of Junior Engineer and Assistant Engineer at a time and on re-designation as Assistant Engineer, the Junior Engineer is appointed to the post of Assistant Engineer by way of recruitment by transfer, thereby shifting him from the Subordinate Service to the State Service and he will lose his lien in the post of Junior Engineer and therefore, the question of considering the re-designated Assistant Engineer against the quota earmarked for Junior Engineer for promotion to the post of Assistant Executive Engineer of the State Service does not arise.



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8. They also further contended that the decision in the case of **B.Thirumal** (cited supra) has no application to the case on hand as in the said case there was no specific rule dealing with providing for appointment by recruitment by transfer from Subordinate Service to the State Service and the said decision is in respect of Electrical Engineering Service, where the Rules are totally different.

9. This Court has carefully considered the submissions made on either side and also perused the entire materials on record.

10. The entire basis for the claim made by the petitioner – Association in the present writ petition is based upon the decision of the Honourable Apex Court in the case of **B.Thirumal** (cited supra), especially Paragraph No.22 of the said decision. In Paragraph No.22 of the said decision, the Honourable Apex Court has held that the degree holder Junior Engineers continue to be members of the Subordinate Engineering Service even after they are re-designated as Assistant Engineers on acquiring a degree qualification. They can, therefore, be considered only against the 25% quota reserved for the Subordinate Service and not against 75% quota reserved for the State Service members directly



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11. The Honourable Apex Court has also further held that the re-designated Assistant Engineers have been considered in the past for promotion in the quota reserved for Assistant Engineers in the State Service was legally bad. The said decision was rendered in the context of the Rules that govern the Electrical Engineering Service, which was the subject matter before the Honourable Apex Court. The Honourable Apex Court has also been pleased to note the legal position in Paragraph No.12 of the said decision, which reads as under:

"12. We have referred to the affidavits in detail only to highlight the fact that the procedure followed by the State Government is not sanctioned by any rule and yet is being followed in the name of a convention. We, however, fail to appreciate how an officer could be considered for promotion in two different channels of promotion. Nor is it possible to appreciate how an engineer or any other civil servant could be a member of two distinct services at the same time or claim a lien or consideration for promotion on that basis."



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12. From the above, it is clear that any officer could not be considered for promotion in two different channels of promotion, nor it is possible for any civil servant to be a member of two distinct services at the same time or claim lien or consideration for promotion on that basis. This is exactly the issue that would fall for consideration in the instant case.

13. By virtue of the impugned clarification, the first respondent has only clarified that the Junior Engineer, on re-designation, would become a member of the State Service being appointed as Assistant Engineer by recruitment by transfer and therefore, the re-designated Assistant Engineer can only be considered for promotion to the post of Assistant Executive Engineer against the quota earmarked for such class of employees, but not against the quota earmarked for Junior Engineer, which is included in the Subordinate Service. Virtually, the clarification is in conformity with the observations made by the Honourable Apex Court in Paragraph No.12 of the decision in the case of **B.Thirumal** (cited supra). The ultimate conclusion arrived at by the Honourable Apex Court in the said decision is on analysing the rule position that is prevailing and existing in the facts and circumstances of the said case, which is dealing with the Electrical Engineering Service. Therefore, the said decision cannot be directly applied to the case on hand. Unlike the case that was



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considered by the Honourable Apex Court, in the instant case, there is a Special Rule that provides for treating the re-designation of Junior Engineer as Assistant Engineer as recruitment by transfer from the Subordinate Service to the State Service notwithstanding the procedure to be followed for appointment by recruitment by transfer.

14. The relevant proviso to Clause-V of Rule 2(a) of the State Service Rules reads as under:

"Provided that the Junior Engineer (Agricultural Engineering) in the Tamil Nadu Agricultural Subordinate Service on acquiring a degree in Engineering or a pass in Section 'A' and 'B' of the AMIE shall be re-designated as Assistant Engineer (Agricultural Engineering) in the Tamil Nadu Agricultural Engineering Service from the date following the last date of examination notwithstanding the procedures to be followed for appointment by recruitment by transfer."

15. In addition to the above proviso, there is yet another provision contained in Rule 6A of the said Rules, which would indicate that the Junior Engineer, on re-designation as Assistant Engineer, would become a member of the State Service and accordingly, Rule 6A provides for fixation of seniority of such re-designated Assistant Engineer in the



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cadre of Assistant Engineer in the State Service. Thus, the Rules governing the State Service would make it clear that the Junior Engineer, who is re-designated on acquiring a degree qualification, would cease to be a member of the Subordinate Service and would become a member of the State Service, thereby losing his lien in the post of Junior Engineer and acquiring lien in the post of Assistant Engineer. As already noted above, the Honourable Apex Court in the case of **B.Thirumal** (cited supra) has observed that the question of a Government Servant having lien in two different posts simultaneously and claiming promotion to the higher post from two different channels at a time does not arise.

16. The proviso to Rule 2(a) and Rule 6A of the State Service would make all the difference and disentitle the petitioner – Association to claim the benefit of the decision in the case of **B.Thirumal** (cited supra).

17. In the light of the above, this Court is of the considered view that the decision rendered by the Honourable Apex Court in the case of **B.Thirumal** (cited supra) has no application to the case on hand.



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18. Further, the contention of Mr.G.Sankaran, learned Senior Counsel appearing for the petitioner – Association that the re-designated Assistant Engineer is deprived of his promotional avenues because of the clarification and also on the ground that the re-designated Assistant Engineer is hardly having any chance to get promotion to the post of Assistant Executive Engineer and therefore, they should be allowed to claim the benefit of promotion from the cadre of Junior Engineer as well as from the post of Assistant Engineer does not deserve any consideration for the simple reason that there is no rule providing for consideration of their cases as is being claimed by them. The impugned clarification is in terms of the Rules governing the post of Assistant Engineer and Assistant Executive Engineer. If at all the petitioner – Association is aggrieved on the ground that the re-designated Assistant Engineer is hardly getting any chance for promotion to the post of Assistant Executive Engineer, it is for the aggrieved party to challenge the relevant rule providing for ratio as well as the rule providing for fixation of seniority among the directly recruited Assistant Engineers and redesignated Assistant Engineers. Admittedly, the challenge that was made against the ratio prescribed under Rules 2(b) and 6A of the State Service Rules as introduced through G.O.Ms.No.431,



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19. In the light of the above, this Court does not see any error or illegality in the impugned clarification letter No.34437/AA.3/2013-5, dated 24.03.2015, issued by the first respondent.

20. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.03.2025

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

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To:

1.The Agricultural
Production Commissioner &
Secretary to Government,
Agriculture Department,
State of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-600 009.



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2. The Chief Engineer,
(Agricultural Engineering),
No.487, Anna Salai,
Nandhanam,
Chennai-600 035.



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MUMMINENI SUDHEER KUMAR, J.

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