



WEB COPY

WP No. 11277 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2025

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THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 11277 of 2019

AND

WP NO. 11281 OF 2019, WMP NO. 34109 OF 2019, WMP NO. 34110 OF 2019

1. K.Suganthi

D/o Kandasamy, Plot No.2286,
Tajmahal Residency West 3rd Street,
Pudukottai.

Petitioner(s)

Vs

1. The State of Tamil Nadu

rep. by the Principal Secretary,
Highways Department, Government of
Tamil Nadu, Fort St.George, Chennai-
600009.

2.The Director General

Highways Department, Guindy,
Chennai - 600025.

3.Tamilnadu Public Service

Commission

rep. by its Secretary, TNPSC Road,
Chennai-600003.



Respondent(s)

WP No. 11281 of 2019

1. K. Suganthi

D/o Kandasamy, Plot NO.2286,
Tajmahal Residency West 3rd Street,
Pudukottai.

Petitioner(s)

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1. The State of Tamil Nadu
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600009.

2. The Director General
Highways Department, Guindy,
Chennai - 600025.

Respondent(s)

WP No. 11277 of 2019

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a certiorarified mandamus calling for the records on the file of second respondent relating to impugned order dated 24.01.2019 bearing ref.Letter No.17132/Nir2(2)/2018-1 and quash the same and consequently direct the respondents to consider the petitioners regular service from 09.03.2000 and as also the service in the corporation from 31.05.1991 and the regular service in the departments from 09.03.2000 and consequently grant promotion to the next higher post of Assistant Executive Engineer from such dated as the petitioner



may be eligible with all service, seniority and monetary benefits.

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WP No. 11281 of 2019

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a certiorarified mandamus for the records on the file of second respondent relating to impugned order dated 24.01.2009 bearing ref.Letter No.17132/Nir2(2)/2018-2 and quash the same and consequently direct the respondents to consider 50 percent of the petitioners service in the Tamilnadu Construction Corporation from 31.05.1991 to 08.03.2000 and full service from 08.03.2000 onwards as qualifying service for pension and consequently place the petitioner under the Old Pension Scheme.

In both petitions:

For Petitioner : Mr.Saikrishnan.T

For Respondent(s): Mr.T.Chezhiyan
Additional Govt. Pleader

ORDER

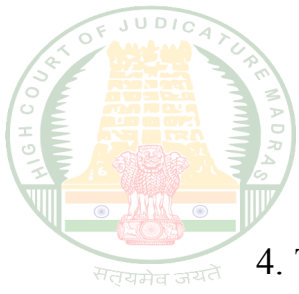
These writ petitions are filed challenging the order passed by the second respondent dated 24.01.2019 bearing ref. Letter No.17132/Nir2(2)/2018-1 and consequently to direct the respondents to consider the petitioner's regular service from 09.03.2000 and grant promotion to the next higher post of Assistant Executive Engineer from the date the petitioner may be eligible, with all service, seniority and monetary benefits and consequently direct the



respondents to consider 50 percent of the petitioner's service in the Tamil Nadu Construction Corporation from 31.05.1991 to 08.03.2000 and full service from 08.03.2000 onwards as qualifying service for pension and place the petitioner under the Old Pension Scheme.

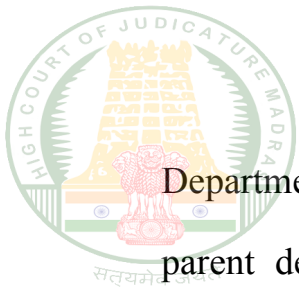
2. The petitioner had joined in the cadre of Assistant Engineer on 07.06.1991 in Tamil Nadu State Construction Corporation (TNSCC) and thereafter she was brought into regular service. She completed her probation on 30.06.1994 and was serving in the same capacity till 08.03.2000. Thereafter, the petitioner was appointed on deputation as Additional Union Engineer in the cadre of Assistant Engineer on 09.03.2000 in the Rural Department and she served there till 31.12.2007. Once again she was appointed on deputation in Highways Department and joined as Assistant Engineer on 01.01.2008 and she was absorbed permanently from the date of joining as Assistant Engineer.

3. The learned counsel for the petitioner submitted that the petitioner's services from the year 2000 was not mere deputation but deputation on transfer of service. Therefore, the services shall be deemed to be considered as continuous and uninterrupted. As the petitioner had completed 26 years of service she is fully qualified to be promoted to the next higher level post of Assistant Divisional Engineer. The petitioner's juniors have been promoted to the next higher post and hence these writ petitions are filed.



4. The petitioner has been permanently absorbed as Assistant Engineer in Tamil Nadu State Construction Corporation, Highways Department in pursuance to the issuance of G.O.Ms.83 Highways and Minor Ports (H2K) dated 11.10.2017. Out of 23 Assistant Engineers in whose favour the order has been issued, the petitioner is also one of the beneficiary. As per the said order the seniority of those persons who have been absorbed shall be fixed below the last regular incumbent appointed in the cadre of Assistant Engineers as on the date. The petitioner's seniority has also been fixed in accordance with the above Government Order. The petitioner has filed these writ petitions without challenging the Government Order in G.O.Ms.83 Highways and Minor Ports (H2K) dated 11.10.2017, but has simply stated that her seniority will relate back to the year 2000 from which date she was sent on deputation.

5. To be noted that the petitioner's deputation to Highways Department was only on 01.01.2008. Prior to that her deputation was in Rural Development Department. As the petitioner did not intend to go back to her parent department and in pursuant to the issuance of G.O.Ms.83 Highways and Minor Ports (H2K) dated 11.10.2017, she has been absorbed in the Highways Department itself in the year 2000. As the petitioner has been absorbed permanently in the Highways Department, her seniority will be governed only in accordance with the Rules made during her absorption in the foreign department namely the Highways



Department. In other words, the petitioner had relinquished her lien in her parent department by accepting the regular absorption given to her in the foreign department as per G.O.Ms.83 Highways and Minor Ports (H2K) dated 11.10.2017. In view of the same the foreign department namely the Highways Department has become the petitioner's second parent department.

6. As the petitioner's seniority is said to have been placed only below all the incumbents as on the date of the absorption of the petitioner, the petitioner cannot claim any better benefit than what she was granted in the Government Order in G.O.Ms.83 Highways and Minor Ports (H2K) dated 11.10.2017. Hence, the writ petition in W.P.No.11277/2019 is liable to be dismissed.

7. So far as the pensionary benefits of the petitioner are concerned, the second respondent shall pass separate orders on merits and in accordance with the Rules. If the petitioner wishes to make any representation with regard to her entitlement of counting her past services right from the date of initial joining in TNSCC, it is up to her to make representation to the second respondent and the second respondent shall consider the same while passing orders as to her eligibility to get pension under old scheme.

8. In the result, the Writ Petition in W.P.No.11277/2019 is dismissed and the Writ Petition in W.P.No.11281 of 2019 is disposed by giving liberty to the



petitioner to give representation to the second respondent with regard to her entitlement of counting her past services right from the date of initial joining in TNSCC and on receipt of the same, the second respondent shall consider the same and pass orders within a period of six weeks thereafter. No costs.

18-02-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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WP No. 11277 of 2



R.N.MANJULA J.

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To

1. The Principal Secretary, Highways
Department, Government of Tamil
Nadu, Fort St.George, Chennai-600009.

2.The Director General
Highways Department, Guindy,
Chennai - 600025.

3. The Secretary,
Tamilnadu Public Service Commission
TNPSC Road, Chennai-600003.

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