



W.P.No.12871 of 2009

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.12871 of 2009

1.Isravel
2.V.Murugan
3.V.Selvarj
4.V.John Kennedy

... Petitioners

Vs.

1. The Chief Engineer,
Highways Department,
Chennai – 600 005.

2.The Divisional Engineer,
High Ways Department,
Ooty Division,
Bomaby Castle,
Ooty, Nilgiris District.

3. T.Elangovan

4. P.Sekar

5. L.Ramesh

6. Murugesh

... Respondents

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(Writ petition is dismissed as withdrawn insofar as the petitioners 1 and 2 are concerned as per order dated 19.11.2014 by MMSJ in W.P.No.12871 of 2009)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned promotion order passed by the second respondent in his proceedings No.2318/2009/B2 dated 01.07.2009 and quash the same and consequently direct the second respondent to promote the petitioners herein as Road Inspector in accordance with his seniority with effect from the date on which their next junior joined duty in pursuant to the impugned order passed by the second respondent in his proceedings No.2318/2009/B2 dated 01.07.2009.

For Petitioners	: Mr.R.Renga Ramanujam
For R1 & R2	: Mr.K.H.Ravikumar, Government Advocate
For R3 to R6	: Mr.G.Ethirajulu



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ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus, to call for the records connected with the impugned promotion order passed by the second respondent in his proceedings No.2318/2009/B2 dated 01.07.2009 and to quash the same while seeking a consequential direction to the second respondent to promote the petitioners herein as Road Inspector in accordance with their seniority with effect from the date on which their immediate junior joined duty pursuant to the impugned order passed by the second respondent in his proceedings No.2318/2009/B2 dated 01.07.2009.

2. The brief facts that are relevant for disposal of this writ petition is as under:

2.1. Though this writ petition has been filed by four petitioners, the same was withdrawn by the petitioners 1 and 2 and the third petitioner is no more. In view of the same, the writ petition is considered only in respect of the fourth petitioner. The fourth petitioner herein was



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originally appointed as Gang Mazdoor on 10.11.1997 in terms of the orders issued by G.O. (Ms).No.371, Highways (HM-2) Department, dated 19.08.1997. The eligibility for being appointed to the post of Gang Mazdoor in terms of the said G.O. are ; one must be below the age of 35 years and possess educational qualification upto V standard and good physic. At the time of his appointment, the petitioner has furnished his educational qualification as X standard failed by producing a Transfer Certificate issued by the concerned school and accordingly, he was appointed as Gang Mazdoor.

2.2. It was thereafter, the Government issued an order vide G.O. (Ms). No.34, Highways (Hk-3) Department, dated 29.01.2008 directing for filling up 25% of the post of Road Inspector from among the Gang Mazdoor who have educational qualification of X standard pass and five years of service as Gang Mazdoor by earmarking the rest of the 75% post for direct recruitment.



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2.3. In the light of said G.O.(Ms).No.34, Highways (Hk-3) Department, dated 29.01.2008, the fourth petitioner herein made a claim for promotion to the post of Road Inspector by producing necessary evidence of pass in X standard. At that stage, the respondents having realised that the petitioner has already passed X standard much prior to his appointment of Gang Mazdoor, but suppressed the said fact while securing employment as Gang Mazdoor, got verified the genuineness of the certificates produced by the petitioner and secured the information from the Director of Government Examinations in the year 2009.

2.4. In the meanwhile, the seniority list of eligible candidates for being promoted to the post of Road Inspector was prepared by the respondents 1 and 2 and in terms of the said seniority list, the fourth petitioner herein was at S.No.6. However, the respondents 1 and 2 instead of considering the case of the fourth petitioner herein promoted the respondents 3 to 6, who are at S.No.7, 8, 10 and 11 in the said seniority list of eligible candidates through the proceedings bearing

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No.2318/2009/B2 dated 01.07.2009. It is aggrieved by the said proceedings, the petitioners approached this Court by filing the present writ petition to quash the same and also sought for consequential direction to promote them as Road Inspector in accordance with seniority with effect from the date on which their immediate junior was promoted to the post of Road Inspector.

3. The second respondent filed counter affidavit and additional counter affidavit. As seen from the counter affidavit dated 09.07.2025, it is noticed that there is no dispute on factual aspects and admittedly the fourth petitioner herein was shown as S.No.6 in the seniority list of eligible candidates for promotion to the post of Road Inspector. But his case was not considered on the ground that the petitioner has suppressed the fact of possessing X standard pass qualification as on the date of his appointment as Gang Mazdoor and his juniors, who are shown as S.No.7, 8, 10 and 11, were promoted to the post of Road Inspector vide impugned proceedings. Though it is stated in the counter affidavit that the case of the fourth petitioner herein was not considered, in view of the



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punishment of stoppage of five years increment without cumulative effect suffered by the petitioners though their juniors were promoted. Admittedly, there was no punishment that was suffered by the fourth petitioner in the year 2009 or by the date of issuance of the impugned proceedings dated 01.07.2009. The punishment that was referred in the counter affidavit was imposed on the fourth petitioner only in the year 2019 through proceedings Ku.No.3776/2019/A1 dated 11.12.2019. In the light of the above, the reason assigned by the second respondent in the counter affidavit for not considering the case of the petitioner for promotion in the year 2009 is totally false and non existent at the relevant point of time.

4. Then coming to the issue as to the eligibility of the fourth petitioner herein for promotion to the post of Road Inspector is concerned, there is no dispute that the petitioner is admittedly possessing the educational qualification as well as service qualification for being considered for promotion to the post of Road Inspector and rightly the respondents have included the name of the petitioner as S.No.6 of the

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seniority list of the eligible candidates for promotion to the post of Road Inspector. Even assuming that the petitioner has suppressed the fact of possessing X standard qualification as on the date of his appointment to the post of Gang Mazdoor on 10.11.1997, in the considered view of this Court, the same should not come in the way of the petitioner for claiming promotion to the post of Road Inspector at a later point of time. Mere possessing X standard qualification will not render the petitioner disqualified for being appointed to the post of Gang Mazdoor. The educational qualification of V standard pass prescribed under G.O.(Ms).No. 371, Highways (HM-2), dated 19.08.1997 is only a minimum education qualification but it does not mean that the candidates possessing higher qualification would get disqualified. In the light of the above, the very approach of the respondents ignoring the case of the fourth petitioner from being considered for promotion to the post of Road Inspector in the year 2009 and promoting the respondents 3 to 6 who are juniors to the fourth petitioner is liable to be declared as illegal and arbitrary.



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5. The next question that would arise for consideration is as to what relief the petitioner is entitled at this stage ?

6. Admittedly, the respondents 3 to 6 herein have been promoted as early as in the year 2009 as Road Inspector and they have been working as such. The third respondent also reported to have died by now. The respondents 4 to 6 also reported to have been further promoted to the post of Road Inspector Grade-I and they have been working as such. In the light of long lapse of time and considering the facts that the respondents 4 to 6 have already been working as Road Inspector and further promoted, this Court is not inclined to disturb the promotion of the respondents 4 to 6 while granting appropriate relief in favour of the petitioner.

7. In the light of the above, the respondents 1 and 2 are directed to extend the benefits of the promotion to the fourth petitioner to the post of Road Inspector with effect from the date on which his



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immediate juniors namely T.Elangovan, P.Sekar, L.Ramesh and Murugesh (respondents 3 to 6 herein) were promoted to the post of Road Inspector and extend all other consequential benefits to the fourth petitioner. However, the fourth petitioner shall be entitled for notional benefits and monetary benefits from the date of passing of this order. The respondents 1 and 2 are directed to pass appropriate consequential order as expeditiously as possible within a period of eight weeks from the date of receipt of a copy of this order.

8. In the result, this Writ Petition is allowed to the extent as indicated above. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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To

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Ooty Division,
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MUMMINENI SUDHEER KUMAR, J.

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