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W.P.No.45570 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2025

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THE HONOURABLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.45570 of 2025

and

W.M.P.Nos.50752, 50753 & 50755 of 2025

P.Jegan

.... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary/Secretary,
Highways and Minor Parts Department,
Fort St.George,
Chennai – 600 009.

2.The Director General,
Highways Department,
Guindy, Chennai – 25.

.... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedings vide Memo.No.11355/Nir2(3)/2025 dated 30.10.2025 passed by the second respondent, quash the same and consequently direct the respondents to grant promotion to the petitioner as Assistant Divisional Engineer from the date of acquiring his qualification for the said post within the stipulated time fixed by this Court.



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For Petitioner : Mr.S.Karthikei Balan
For Respondents : Mr.S.Yaswanth
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order dated 30.10.2025 passed by the second respondent, thereby rejecting the request made by the petitioner seeking promotion to the post of Assistant Divisional Engineer.

2.Heard the learned counsel appearing on either side and perused the materials available on record.

3.The petitioner was initially appointed as Assistant Draughtsman on 16.08.2001. Thereafter, he was promoted to the post of Junior Draughting Officer on 22.12.20224 and subsequently promoted to the post of Junior Engineer on 29.08.2015. The petitioner also acquired the qualification of Bachelor of Engineering in Civil and Structural as early as on 10.03.2010. His next avenue of promotion is to the post of Assistant Engineer. As per Rule 9 and 10 of the Special Rules for the Tamil Nadu Highways Engineering Service (hereinafter referred to as “Rules”), the petitioner is



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eligible to be appointed to the post of Assistant Divisional Engineer as and when vacancy arises. Further, as per the Rule 18 of the Rules, 75% of the posts of Assistant Engineer in the respondent department are to be filled up by Engineering Degree holders and the remaining 25% by Engineering Diploma holders holding the post of Junior Engineer. In fact, the feeder categories for promotion to the post of Assistant Divisional Engineer, consist of 25% from the category of Junior Engineers and 75% from the category of Assistant Engineers appointed by direct recruitment.

4. In fact, even after amendment of Rule 10 came into force by way of G.O.Ms.No.49, Highways and Minor Ports (HK1) Department, dated 02.04.2018, similarly placed seven persons, like the petitioner, were promoted to the post of Assistant Engineer from the feeder category of Junior Engineers under the 25% quota. Though the petitioner was eligible for appointment to the post of Assistant Divisional Engineer as early as in the year 2015, he was neither considered nor promoted. The petitioner had also approached this Court on several occasions and sought directions. However, the same were not considered. While being so, there was amendment in the Rules by G.O.Ms.No.49, Highways and Minor Ports



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(HK1) Department, dated 02.04.2018, which mandates that the persons must have served as a Junior Engineer for a period of not less than ten years for promotion to the post of Assistant Engineer. Accordingly, Rule 10 has been amended. It is the specific case of the petitioner that the said amendment is prospective in nature and cannot be applied to deny consideration of his claim for promotion, which had accrued prior to the amendment.

5.The learned counsel appearing for the petitioner submitted that the petitioner had completed ten years of service as Draughtsman as on 16.08.2011. As per Rule 10(c)(2)(b) of the Rules, a person is eligible for promotion to the post of Assistant Divisional Engineer on completion of not less than ten years of service either as Junior Engineer or Draughtsman. In the present case, the petitioner completed the requisite ten years of service as Draughtsman as on 16.08.2011 and thereafter, he was promoted to the post of Junior Engineer on 29.08.2015. As per Rule 10(4) of the Rules, a candidate must possess a degree in engineering or its equivalent after appointment and should have completed either ten years of total service or three years of service from the date of acquisition of the engineering degree, whichever is earlier, in order to be eligible for promotion to the post of Assistant Divisional Engineer.



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6.As far as the petitioner is concerned, he had completed three years from the date of acquisition of his engineering degree on 10.03.2010. Therefore, he became eligible for consideration for promotion as early as on 10.03.2010. Further, though there was vacancy in the post of Assistant Divisional Engineer, the respondents had promoted only seven persons from the cadre of Junior Engineer to the post of Assistant Divisional Engineer. Though 85 posts were earmarked under the 25% quota for promotion from the cadre of Junior Engineers to the post of Assistant Divisional Engineer, the said quota was fill up from the 75% Assistant Engineer quota. As per the amended Rules, the petitioner would become eligible for promotion only on completion of ten years of service in the post of Junior Engineer. By the time such ten years of service could be completed, the petitioner had attained the age of superannuation and retired without being promoted to the post of Assistant Divisional Engineer.

7.In fact, the Hon'ble Division Bench of this Court in W.A.No.1334 of 2009 dated 21.01.2010, while confirming the order passed in W.P.No.9093 of 2008 etc batch, dated 09.09.2009 which was also confirmed by the Hon'ble Supreme Court of India, held as follows :



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“19..... when the persons with prescribed degree qualification was not available, such vacancies could be filled from among the holders of Post Diploma or Diploma qualifications. If really the intention of the Rule making authority was to make available the remaining 25% in the quota of 3:1 to the Assistant Engineers apart from 75% available to them in the absence of suitable candidates, the above words as found in the notification should have also been employed in the present Rules, but it is absent which would clearly indicate that the appellants cannot be allowed to urge that the persons available in the other feeder category are not qualified, and hence the Assistant Engineer should be fit in there.

20. Apart from the above, much emphasis was made by the appellants' side on two documents namely a letter written by the Secretary to Government to the Additional Advocate General dated 06.07.2009, and also another communication in which the first respondent while replying for a query raised under Right to Information Act, 2005, stating that the respondents 3 to 23 were promoted under Rule 10(b)(2)(a) and (b) and not under Rule 10(c)(3)(a) and (b). This Court is of the considered opinion that no weight could be attached to the above communications for the reasons that insofar as the communication between the Secretary and the Additional Advocate General, it could be presumed only as instructions.



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As far as the other communication as to the query was concerned, it was only an information. While it is quite evident that the respondents 2 to 23 possess the necessary qualification and experience to satisfy the Rule under 10(b)(2)(a) and (b) and 10(b)(3)(a) and (b), their recruitment by transfer cannot be questioned. Hence the recruitment of the respondents 3 to 23 has got to be upheld, and this Court is unable to see any reason to disturb the judgment of the learned Single Judge.”

8. Therefore, the petitioner satisfies the eligibility criteria prescribed under Rule 10(c)(2)(b) and 10(4) of the Rules. Hence, the respondents ought to have considered and promoted the petitioner to the post of Assistant Engineer under the 25% quota in the available vacancies. However, the said 25% quota was not followed and therefore the vacancies were filled up from the feeder category of Assistant Engineers falling under the 75% quota.

9. In view of the above, the order impugned in this writ petition cannot be sustained and is liable to be quashed. Accordingly, the order dated 30.10.2025 passed by the second respondent, is hereby quashed. The respondents are directed to promote the petitioner to the post of Assistant Divisional Engineer, de hors the amended Rule 10(c)(2)(b) introduced by



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G.O.Ms.No.49, Highways and Minor Ports (HK1) Department, dated 02.04.2018, in the available vacancy, within a period of four weeks from the date of receipt of a copy of this order.

10.In the result, this Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

21.11.2025

Neutral citation :Yes/No

Index:Yes/No

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To

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2.The Director General,
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