



W.A.(MD)No.996 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A(MD)No.996 of 2021

G.Sundarraaj

... Appellant /
Petitioner

Vs.

1.The Divisional Engineer,
State Highways Department,
Ramanathapuram.

2.The Assistant Divisional Engineer,
State Highways Department,
(Construction and Maintenance),
Thiruvadanai,
Ramanathapuram District.

3.R.Suresh

4.G.Pandian

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by this Court dated 09.02.2021 in W.P(MD)No.6534 of 2012.

For Appellant : Mr.G.Prabhu Rajadurai



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For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R.1 & R.2

Mr.J.Anandkumar
for R.3 & R.4

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.

2.This appeal is directed against the order dated 09.02.2021 passed by the learned single Judge dismissing W.P(MD)No.6534 of 2012 filed by the appellant herein. The appellant herein as well as the private respondents herein (respondents 3 and 4) joined the State Highways Department as Gang Mazdoors pursuant to the appointment order dated 14.11.1997. It is not in dispute that the writ appellant was senior to the private respondents herein in the post of Gang Mazdoor. The next promotional post is that of Road Inspector Grade - II. The private respondents herein were promoted to the said post vide proceedings dated 27.04.2012 issued by the Divisional Engineer, State Highways Department, Ramanathapuram. Aggrieved by the same, the appellant herein filed W.P(MD)No.6534 of 2012.



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3.The grievance of the appellant is that admittedly when he was senior to the private respondents, he could not have been overlooked. However, the learned single Judge vide order dated 90.02.2021 rejected the appellant's prayer in the following terms:

“6. In the case on hand, it is not in dispute that the petitioner and the private respondents were appointed as Gang Mazdoor in the year 1997 and the next level of promotion is Road Inspector Grade – II and the minimum qualification for the promotional post is 10th Standard pass. The private respondents have passed the 10th Standard in the month of October 1994 and October 1995 respectively. Therefore, their names were included in the panel for the year 2008. Subsequently, the third respondent has issued a charge memo against the private respondents as if they suppressed the factum of 10th Standard pass, at the time of joining duty and this Court has quashed the charge memo in W.P. (MD).Nos.14193 and 14194 of 2011, dated 29.02.2012. Therefore, the private respondents were given promotion. Whereas, the name of the petitioner was found in the panel for the year 2012 and he passed the 10th Standard only in the year 2008. Hence, this Court is not inclined to interfere with the order passed by the first respondent as no case has been made out by the



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petitioner to substantiate his grievance. Accordingly, this Writ Petition, being devoid of merits, is dismissed. However, there shall be no order as to costs."

Assailing the said approach adopted by the learned single Judge, this Writ Appeal has been filed.

4.The learned counsel appearing for the appellant drew our attention to the Proviso to Rule 4 of the Tamil Nadu State and Subordinate Services Rules, which was in force during the relevant point of time. According to the learned counsel, even though the names of the private respondents have been included in the promotion panel for the post of Road Inspector Grade - II in the year 2008, the fact remains that they were not appointed. Therefore, the private respondents could have been considered for promotion only along with the writ appellant, especially when the writ appellant was admittedly senior.

5.The writ appellant was not considered for inclusion in the promotion panel in the year 2008 only because he did not possess the requisite educational qualification i.e., pass in 10th standard. Such qualification was acquired by him in the year 2008 itself. Therefore, when promotion panel was drawn in the year 2012, the appellant ought to



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have been placed above the private respondents herein. In this view of the matter, the learned counsel for the appellant wanted us to interfere with the order of the learned single Judge and grant relief as prayed for.

6.Per contra, the learned Additional Government Pleader as well as the learned counsel for the private respondents submitted that the impugned order is well reasoned and that it does not call for interference.

7.We carefully considered the rival contentions and went through the materials on record.

8.Proviso to Rule 4 of the Tamil Nadu State and Subordinate Services Rules reads as follows:

“Provided that the list of approved candidates for appointment by promotion and by recruitment by transfer to all the categories of posts in the Tamil Nadu State and Subordinate Services shall be prepared annually against the estimated number of vacancies expected to arise during the course of a year. The estimate of vacancies shall be prepared taking into account the total number of permanent post in a category; the number of temporary posts in existence; the anticipated sanction of new posts in the next year; the recruitment post of leave reserves;



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the anticipated vacancies due to retirement and promotion, etc., in the course of the year and the number of candidates already in position in that category. The list of approved candidates, so prepared, shall be inforce for a period of one year only and shall lapse at the end of the year. The candidates whose names were included in the previous list, but were not appointed, shall be considered, if eligible for inclusion in the list of next year along with their seniors if any whose names were not included in the previous list either because they were found not suitable or because they were not technically qualified when the previous list was drawn up.”

9.For promotion to the post of Road Inspector Grade – II, passing 10th standard is mandatory. The writ appellant acquired the said qualification only in the year 2008, by which the time the promotion panel had already been finalised. The names of the private respondents were included in the said panel. But they were not given promotion for the reason that the employer entertained a suspicion that they had made some suppression regarding their qualifications. It is for this reason that disciplinary proceedings were subsequently initiated against them in the year 2009.



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10.Challenging the charge memos, the private respondents filed

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W.P(MD)Nos.14193 and 14194 of 2011. Vide order dated 29.02.2012, a learned single Judge of this Court quashed the charge memos. As regards the prayer for promotion to the post of Road Inspector Grade - II, the learned single Judge left it open to the authorities to consider the writ petitioners' request and pass appropriate orders, if the writ petitioners were otherwise qualified and by taking note of the fact that the charge memos had been quashed. Pursuant to the said direction given by the learned single Judge, the impugned proceedings came to be issued.

11.Proviso to Rule 4 of the Tamil Nadu State and Subordinate Services Rules relied on by the learned counsel for the appellant would kick in only in the case of routine annual preparation of the list of approved candidates for promotion. In the case on hand, it is not as if the panel for the year 2012 was prepared and the names of the private respondents were included therein. That is not the case. The private respondents ought to have been promoted to the post of Road Inspector Grade - II in the year 2008 itself. In fact, during the relevant time, no charge memo had not been issued. In our view, the private respondents ought to have challenged the promotion order by claiming that they



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should have been appointed in the year 2008 itself above their juniors.

Since the impugned promotion given to the private respondents is not in terms of Rule 4 of the Tamil Nadu State and Subordinate Services Rules, we are of the view that the proviso relied upon by the learned counsel for the appellant would not apply at all. In this view of the matter, we decline to interfere.

12.This Writ Appeal stands dismissed. No costs.

[G.R.S., J.] [R.K.M, J.]
15.12.2025

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

To

- 1.The Divisional Engineer,
State Highways Department,
Ramanathapuram.
- 2.The Assistant Divisional Engineer,
State Highways Department,
(Construction and Maintenance),
Thiruvadanai,
Ramanathapuram District.



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