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WP No. 20627 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-03-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 20627 of 2024

1. D.Sridevi
2. L.Gomathi
3. M.Faritha Begum
4. S.Chandrasekar

..Petitioner(s)

Vs

1. State of Tamil Nadu
Rep by its Principal Secretary To
Government, Highways And Minor Ports
Department, Fort St.George, Secretariat,
Chennai-600 009
2. The Director General
Highways Department, Guindy,
Chennai-600 025
3. The Joint Director(Administration)
Office Of Director General,
Highways Department,
Guindy, Chennai-600 025

..Respondent(s)

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 2nd respondent in Memo.No.5893/Nir.5(2)/2024 dated 15.5.2024 and to quash the same and



consequently directing the respondents to prepare year-wise panel from the year 2017 for promotion to the post of Junior Draughting officer (JDO) by arriving State Level combined seniority in the post of Road Inspector as single feeder category without reference to the date of promotion to the post of Road Inspector Grade I in each Division and consequently include the names of the petitioners in the relevant panel year based on the seniority and eligibility and to grant promotion to the post of Junior Draughting officer (JDO) by recruitment by transfer in accordance with special rules for Tamil Nadu Highways subordinates service, within a time frame to be fixed by this Court.

For Petitioner(s): Mr.S.Nedunchezhiyan

For Respondent(s): Mr.T.Chandrasekaran
Special Government Pleader

ORDER

The writ petition has been filed for the following relief:

“To issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 2nd respondent in Memo.No.5893/Nir.5(2)/2024 dated 15.05.2024 and to quash the same and consequently to direct the respondents to prepare year-wise panel from the year 2017 for promotion to the post of Junior Draughting officer (JDO) by arriving at a state level combined seniority in the post of Road Inspector as a single feeder category without reference to the date of promotion to the post of Road Inspector Grade I in each Division and consequently include



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the names of the petitioners in the relevant panel year based on their seniority and eligibility and to grant promotion to the post of Junior Draughting officer(JDO) by recruitment by transfer in accordance with special rules for Tamil Nadu Highways subordinates service, within a time frame to be fixed by this Court.

2. It is the case of the petitioners that the 1st petitioner was appointed as Road Inspector-Grade II on 05.02.2011, the 2nd petitioner on 11.12.2009, 3rd petitioner on 10.08.2012 and the 4th petitioner on 21.06.2012. The said post of Road Inspector-Grade-II was thereafter renamed as Skilled Assistant Grade II in the respective Divisional Offices of the Construction and Maintenance Department.

3. It is the further case of the petitioners that they are eligible for promotion to the post of Junior Draughting Officer (JDO) based on their seniority in the post of Road inspector. For the promotion post of JDO, there is no classification such as Grade-I or Grade-II in the feeder category, namely Road Inspector.



4. It is the further case of the petitioners that from the panel year 2017, no promotion has been granted from the post of Road Inspector which is the feeder category for JDO. However, by order dated 07.02.2024, promotion has been granted to the post of JDO without following the year wise panel and only by considering Road Inspector Grade-I, which is in violation of the Service Rules.

5. The petitioners would further submit that the appointment of Road Inspector is made at the divisional level by the appointing authority i.e the Divisional Engineer, Construction and Maintenance Wing of the Highways Department. In the state of Tamil Nadu, there are 45 divisions coming under 9 Construction and Maintenance Circles of the Highways Department. The posts of Road Inspector Grade-I and Grade-II are governed by the Special Rules for the Tamil Nadu Highways Engineering (Work Charged) Subordinate Service whereas the posts of Junior Engineer and JDO come under the Tamil Nadu Highways Engineering Subordinate Services. The feeder category for the post of Junior Engineer is Road Inspector-Grade I. However, the feeder category for the post of Junior Draughting Officer is the combined cadre of Road Inspector without reference to their grades.



6. While so, the TNPSC had issued Notification No.06/2021 dated 05.03.2021 notifying 188 vacancies to the post of JDO to be filled by direct recruitment from the open market. Since promotion had not been granted to the post of JDO from the category of Road Inspector for several years, one Suriyakumar and others had filed W.P.No.10072 of 2022 before this Court and this Court had directed the respondents to prepare the year wise panel and promote the eligible persons to the post of JDO on drawal of year-wise panel prior to the direct recruitment. Consequent to the order passed in the above writ petition, the respondents 2 and 3 had prepared a combined seniority list for the post of Road Inspector in January 2024 and proceeded to issue orders dated 07.02.2024 in and by which 82 Road Inspectors-Grade-I has been granted promotion to the post of JDO.

7. The petitioners had objected to the order dated 07.02.2024 stating that it was issued in violation of the Special Rules as the respondents had considered only the Road Inspector Grade-I leaving behind Road Inspector Grade-II and had also failed to prepare a year wise panel. Challenging the same, the petitioner has filed W.P.No.6988 of 2024 seeking a direction to the respondents to prepare a year wise panel from the year 2017 for promotion to the post of JDO by arriving at a State level combined



seniority in the post of Road Inspector as a single feeder category without reference to the date of promotion of the said inspectors. By order dated 18.03.2024 the 2nd respondent was directed to dispose of the petitioner's representation.

8. Pursuant to the order of this Court, the impugned order has been passed wherein the respondents have taken a stand that there are 45 Divisions in the State and that the post of skilled Assistant Grade-I (Road Inspector) is filled up by promotion from the post of Skilled Inspector Grade-II. It is further stated that there is no apportionment of ratio prescribed under the Special Rules between direct recruitment and promotion by transfer from the feeder category to the post of JDO. The Director General, by proceedings dated 24.07.2023, has directed rotation of the feeder category for filling up the post of JDO and that the post of Skilled Assistant Grade-I is the feeder post. Therefore, according to the respondents, there is no error in the seniority list that has been drawn up. Challenging the same, the petitioners are before this Court.

9. The respondents have filed a counter affidavit, inter alia, denying the allegations contained in the affidavit filed in support of the writ



petition. They would submit that Skilled Assistant Grade I and Grade II cannot be treated as a “common cadre.” The post of Skilled Assistant Grade-I and II are maintained at the Divisional level across 45 Divisions under the capacity of the appointing authority namely the Divisional Engineer (Highways) Construction and Maintenance Wing under the Work Charged Establishment with the Controlling Authority under 9 Superintending Engineers (H) Construction and Maintenance, Chennai. They would further submit that with reference to Road Inspector in the Rules namely Rule 4 and Section 15 of the Tamil Nadu Highways Engineering Subordinate Service, read in conjunction with Rule 2 of Section 15B of Tamil Nadu Highways Engineering (Work Charged) Subordinate Service refers to only Road Inspector-I and does not take into account both Skilled Assistant Grade I and II. They would also contend that the claim of the petitioners that Skilled Assistant Grade I and Grade II constitute a common cadre to be considered for promotion to the post of Junior Draughting Officer (JDO) cannot be sustained. Therefore, the respondents sought for dismissal of the writ petition.

10. Heard the learned counsels on either side and perused the materials available on record.



11. The issue that arises for consideration in the present writ petition is whether the feeder category for the post of JDO is Road Inspector Grade I or the combined cadre of Road Inspectors including Grade I and Grade II.

12. Before proceeding to discuss the issue, it would be apposite to refer to the Special Rules relating to Road Inspector Grade I and Grade II.

13. It is relevant to extract the Rule 2 of Section 15B of the Tamil Nadu Highways Engineering (Work Charged) Subordinate Service which reads as follows:-

Post (1)	Method of Recruitment (2)
Category 1 Road Inspector, Grade I	By promotion from among the holders of the posts of Road Inspector, Grade II who have put in not less than five years of service. Promotion shall be made on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal.
Category 2 Road Inspector, Grade II	(i) By Direct recruitment; and (ii) by recruitment by transfer from among the holders of the post of Gang Mazdoors in the Tamil Nadu Basic Service in the ratio of 3:1. Provided that recruitment by transfer shall be made on grounds of merit and ability,



	seniority being considered only where merit and ability are approximately equal: Provided further that if no suitable persons are available in the category of Gang Mazoor, such vacancies shall be filled up direct recruitment
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Rule 7 further states that for the purpose of recruitment and discharge for want of vacancies each division will be treated as a separate unit. The posts of Junior Engineer, JDO etc come under the Tamil Nadu Highways Engineering Subordinate Service. The method of recruitment for the post of Junior Draughting Officers is as follows:-

“1) Direct recruitment; or promotion from category 5, Assistant Draughtsman; or for special reasons, recruitment by transfer from any other service;

(2) Promotion from the posts of Road Inspectors and Field Assistants who possess the Diploma/Licentiate in Civil Engineering or Diploma/Licentiate in Mechanical Engineering qualification and have rendered service for a period of not less than five years in the category they serve:

Provided that-

(1) Junior Engineers may in individual cases be temporarily appointed as Senior Draughting Officer, Draughting Officer



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and Junior Draughting Officer, only in the Office of the Chief Engineer (Highways) according to the exigencies of service without prejudice to their appointment as Junior Engineers and the Junior Engineers so appointed shall draw the pay admissible to them as Junior Engineer as long as they are retained as Draughtsmen.

(2) Junior Engineer may in individual cases be temporarily appointed as Senior Draughting Officer, Draughting Officer according to exigencies of service without prejudice to their appointment as Junior Engineer-

(i) By the Superintending Engineer concerned with the approval of the Chief Engineer (Highways) in his Circle;

(ii) By the Chief Engineer (Highways) in respect of appointment in the Office of the Chief Engineer (Highways) and the Junior Engineer so appointed shall draw the pay admissible to them as Junior Engineer so long as they are retained as Draughtsmen.”

It is this criteria which is the bone of contention between the petitioner and respondents.



14. A reading of the above Rules would indicate that the feeder category for JDOs is the post of Road Inspector. The recruitment Rules do not mention about the grades and whether the same is an omission or a considered decision can be tested by referring to the method of recruitment for the post of Junior Engineer. Here, the Rules clearly specify that it shall be from among the post of Road Inspector Grade-I. Therefore, a reading of these two methods of recruitment clearly indicates that, for the post of JDOs the feeder category is the combined cadre of Road Inspectors now known as Skilled Assistant.

15. An amendment has been brought about to the Rules vide G.O.Ms.No.122 dated 03.10.2020 wherein the following amendment has been made:

(a) *“For item (iv) the following item shall be substituted namely-*

(b) the qualifications specified below shall be necessary for appointment to the post of Junior Draughting Officer by promotion or by recruitment by transfer namely-

(a) Members of Category 5 (Assistant Draughtsman) who have acquired the qualification of a



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Diploma in Civil Engineering subsequently shall have a service of not less than two years in that category after acquiring such qualification and

(b) Members of Road Inspectors and Field Assistants who have acquired the qualification of a Diploma in Civil Engineering subsequently shall have a service of not less than two years in that category after acquiring such qualification.

Provided that while making appointment by direct recruitment to the post of Junior Draughting Officer, preference shall be given if other things being equal to those who have undergone one year of apprenticeship training under the Government of India Scheme or the State Government Apprenticeship Scheme.”

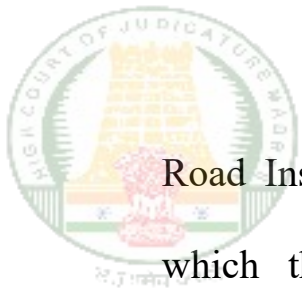
16. From a reading of the amendment, it is clear that it only the period of service that has been amended and not the feeder category. Further the amendment has been brought about only through an executive



order, but however, the Rules have not been amended. The Hon'ble Supreme Court in the Judgment reported in **1998 (8) SCC 469** **[K.Kuppusamy and another Vs State of Tamilnadu and others]** has held that Statutory Rules cannot be overridden by executive orders or executive practice. The Hon'ble Supreme Court has observed as follows:

“Merely because the Government had taken a decision to amend the rules does not mean that the rule stood obliterated. Till the rule is amended, the rule applies. Even today the amendment has not been effected. As and when it is effected ordinarily it would be prospective in nature unless expressly or by necessary implication found to be retrospective”

Therefore, the amendment would also not come to the rescue of the respondents. The respondents have sought to draw a distinction between the two grades by relying upon the scale of pay to contend that Grades I and II cannot be filled as a single common cadre. Such an argument cannot be countenanced in the light of the Rules relating to the method of recruitment, which clearly states that, for the post of JDO, one of the methods of recruitment is by promotion from the post of Road Inspectors and the Rules do not stipulate that such promotion would be only from



Road Inspectors Grade I or Grade II. Therefore, the entire premise on which the impugned order has been passed is misconceived. The petitioners, who are Skilled Assistants Grade II, are also eligible for consideration for promotion to the post of JDOs.

17. In the light of the above discussions, the impugned order of the 2nd respondent, dated 15.05.2024, is quashed and the writ petition is allowed. The respondents are directed to prepare year-wise panel from the year 2017 for promotion to the post of Junior Draughting Officer by arriving at a State-level combined seniority in the post of Road Inspector as a single feeder category, without reference to the date of promotion to the post of Road Inspector Grade I in each Division, and consequently include the names of the petitioners in the relevant panel year based on their seniority and eligibility, and grant them promotion to the post of JDO by recruitment by transfer in accordance with the Special Rules of the Tamil Nadu Highways Subordinate Service, within a period of six months from the date of receipt of a copy of this order. No costs.

18-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SRN



To

1. The Principal Secretary To Government,
Highways And Minor Ports Department, Fort St.George,
Secretariat, Chennai-600 009
2. The Director General
High Ways Department, Guindy, Chennai-600 025
3. The Joint Director(Administration)
Office Of Director General, Highways Department,
Guindy, Chennai-600 025



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