

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.5267 of 2001

Tamil Nadu State Construction
Corporation Limited Staff & Employees
Association - Regd.No.842/TIN
rep by its General Secretary
No.4, Sivan West Street
Tirunelveli 9. Petitioner

Vs

1.Tamil Nadu State Construction
Corporation Ltd., rep by its
Managing Director, Jawaharlal Nehru Salai
Jainagar
Arumbakkam, Chennai 600 106.

2.The Chairman
Tamil Nadu State Construction
Corporation Ltd.,
(Secretary to Government Highways Department)
Fort St.George
Chennai 600 009.

3.The Government of Tamil Nadu
rep by the Secretary to Government
Highways Department, Fort St.George
Chennai 600 009.

4.A.Robinson
5.G.J.B.Anand Kumar
6.L.Sankaranarayanan

7.Bangalore University
rep by its Registrar
Bangalore.

Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration that promotion of the 4th respondent A.Robinson as Superintendent (Admn.), vide proceedings No.706/86/A2 dated 09.07.1999 as illegal, arbitrary

and violative of Articles 14 and 16 of the Constitution of India and consequently revert the 4th respondent, place him below M.Velayutham and C.Rajakumar and other seniors to the 4th respondent, recover the loss to the Corporation from the 4th, 5th and 6th respondents due to the illegal promotion of the 4th respondent.

For petitioner : Mr.K.M.Ramesh
For R2 : Mr.V.Jayaprakash Narayanan
Special Govt.Pleader
For R3 : Mr. S. Gunesekaran AGP
For R4 : Mr.R.Parthiban

ORDER

This petition has been filed by the Tamil Nadu State Construction Corporation Limited Staff & Employees Association, challenging the promotion granted to A.Robinson, fourth respondent herein on the ground that he had acquired his B.L. degree while he was in service.

2. Mr.K.M.Ramesh, learned counsel for the petitioner association placed strong reliance on the judgment of the Division Bench of this Court in P.Ramu v. The Secretary, Bar Council of Tamil Nadu, High Court, Chennai and others in W.P. (MD) No.3731 of 2011 dated 20.04.2016 in support of his contention that, the fourth respondent could not have been given a law degree while he was in service, as he had not obtained any permission from his employer for undergoing the course. He also relied upon the judgment of a learned single Judge of this Court in B.Madhan v. The Registrar, University of Madras and others in W.P.No.15284 of 2010 dated 10.12.2014.

3. Per contra, Mr.Parthiban, learned counsel for the fourth respondent submitted that the writ petition itself is not maintainable, because the writ petition has been filed by the association challenging the promotion of an individual and not by any aggrieved person. The learned counsel further contended that the fourth respondent's promotion was already challenged by the Tamil Nadu State Construction Corporation Employees Union in W.P.No.17928 of 1999, which was negatived by a learned single Judge of this Court by order dated 17.10.2008.

4. This Court gave its anxious consideration to the rival submissions. The fact remains that the petitioner is not an individual, who is aggrieved over the promotion of the fourth respondent. The petitioner is an association, which cannot challenge the promotion of a member of the same establishment without anything more.

5. As regards the contention of Mr.K.M.Ramesh that the Division Bench has castigated those who had obtained such degrees, this Court on perusal of the order of the Division Bench finds that the challenge before the Division Bench was a circular in Roc.No.561/2006 dated 24.07.2006 that was issued by the Chairman, Bar Council of Tamil Nadu, whereby, those who had acquired law degrees while in employment without valid permission cannot be permitted to be enrolled as an Advocate. Ultimately, the Division Bench dismissed the writ petition. The facts obtaining in that case are different from the facts at hand. Here, the fourth respondent is not seeking to enrol himself as an Advocate before the Bar Council. His promotion is being challenged on the ground that he has obtained law degree without permission. This issue has been gone into by this Court even in the earlier order, wherein this Court has stated as follows:

"3. The Writ Petition was admitted on 9.11.1999. Pending the Writ Petition, no interim order of relief was granted to the petitioner union. Pursuant to the notice, the third respondent has filed a counter affidavit dated 15.9.2008 and the third respondent had asserted that he had obtained a Degree of Law from the Bangalore University. Even the genuineness of the said degree was verified by the first respondent and the Bangalore University had certified that he had obtained the Law Degree. With reference to not seeking permission from the employer, proceedings were initiated and the third respondent was let off with a warning.

4. Merely because a degree was obtained without permission, in the absence of any Rules contrary, the genuineness of the said certificate cannot be questioned by the employer, especially when the authority to grant certificate vouchsafe its genuineness."

6. Mr.K.M.Ramesh, learned counsel also relied upon a Division Bench judgment of this Court in M.Vetri Selvan v. High Court of Judicature at Madras [(2015) 1 CTC 129]. Even in the said judgment, in paragraph 54, the Division Bench has held that those who had obtained B.L. Degree while in employment will not be considered for promotion and that they can be treated only on equal terms with the B.A.L. degree holders. This is a general proposition of law that has been laid by the Division Bench of this Court with regard to promotions in the High Court.

7. On the contrary, the fourth respondent's case itself has been dealt earlier by a single Judge of this Court in W.P.No.17928 of 1999 on the challenge

made by the Employees Union and the same cannot be now re-agitated by the Employees Association under a different garb.

In the result, this petition is dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

1.Tamil Nadu State Construction Corporation Ltd., rep by its Managing Director, Jawaharlal Nehru Salai Jainagar Arumbakkam, Chennai 600 106.

2.The Chairman Tamil Nadu State Construction Corporation Ltd., (Secretary to Government Highways Department) Fort St.George Chennai 600 009.

3.The Government of Tamil Nadu rep by the Secretary to Government Highways Department, Fort St.George Chennai 600 009.

+1cc to Mr.K.M. Ramesh, Advocate, S.R.No.72360
+1cc to Mr.R. Parthiban, Advocate, S.R.No.72283

skv(CO)
md(11/01/2017)

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