

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.17702 of 2016

ORDER:

1. The petitioner joined the 1st respondent corporation as a Cleaner on 14.10.1977 and thereafter he was selected as a driver on 26.05.1982. He appeared for the competitive examination conducted by the respondent corporation for the post of Depot Manager and he passed the examination. He was appointed as a Depot Manager on 12.11.1990 and worked in Narayanapet up to 02.06.1994. Thereafter, he was promoted as Divisional Manager, Proddatur on 08.10.2002 and worked up to 03.09.2004. He was transferred to the post of Principal, Zonal Staff Training College, Vizianagaram, on 04.09.2004 and worked up to 23.08.2009, thereafter as a Principal, Zonal Staff Training College, Gannavaram, from 24.08.2009 to 31.07.2012 and at Warangal from 01.08.2012 till date. He is a Post Graduate in Economics and also completed M.B.A. from Osmania University. The next promotion from the post of Divisional Manager is Regional Manager. The petitioner states that he fulfilled all the requisite qualifications for being considered to the post of Regional Manager. The Corporation maintained a seniority list of Class-I Senior Scale Officers and the name of the petitioner figured at Serial No.3. When promotions were made by promoting the candidates at Serial Nos.4 to 6 ignoring the case of the petitioner, the present writ petition was filed.

2. The facts stated by the petitioner in his affidavit were not denied in the counter-affidavit. However, it was stated that the petitioner is due for retirement on 30.09.2016 and the Regional Manager post is a Class-I Special Scale post. The method of recruitment to the post of Regional Manager is by promotion, by selection, from among the Class-I Senior Scale Officers except the officers of the Medical Department or by transfer of Heads of Departments, except the Heads of the Medical Department or by deputation of officers from the State/Central

Governments. Regulation 30 of the Recruitment Regulations provides for making temporary promotions and accordingly respondents 3 to 5, who possessed the requisite qualifications, were promoted temporarily and they have assumed charge of the promotional posts. The petitioner does not possess the requisite qualification of having work experience of Divisional Manager/Deputy Chief Traffic Manager/Deputy Chief Mechanical Engineer for a period not less than three years. All the transfers in the post of Principal were made at the request of the petitioner only. It was further stated that the service rendered by the petitioner in the post of Principal cannot be equated to the service rendered in the post of Divisional Manager/Deputy Chief Traffic Manager/Deputy Chief Mechanical Engineer. Therefore, the case of the petitioner was not considered for promotion. However, as a part of the Career Advancement Scheme, the petitioner was extended the benefit of pay fixation in the scale of Regional Manager/Head of Department with effect from 01.03.2010. Hence, no loss is caused to the petitioner.

3. There is no dispute that the post of Principal which the petitioner is discharging is a Class-I Senior Scale Officer post like that of Divisional Manager. The method of recruitment to the post of Regional Manager as amended by the Resolution dated 04.04.2012 reads as follows:

POST: REGIONAL MANAGER

METHOD OF RECRUITMENT		QUALIFICATIONS	
EXISTING	AMENDED	EXISTING	AMENDED
To be filled in By promotion, by selection, from among the Class-I Senior Scale Officers, except the Officers of Medical Department; OR By transfer of Heads of Departments, except the Heads of the Medical Department.	No change	FOR PROMOTION: (i) Must have put in a minimum of ten (10) years service in the Corporation in Class-I Service out of which at least Five (5) years should be as a Class-I Senior Scale Officer. ii) Must have worked as Divisional Manager/Depot Manager for a period of not less than 3 years in the Corporation (Exclusive of the period	FOR PROMOTION: i) No change (ii) Must have worked as Divisional Manager/Deputy.Chief Mechanical Engineer for a period of not less than 3 years in the Corporation out of a minimum service of 5 years as Class-I Senior

OR By deputation of Officers from state/Central Governments.	of training, if any, as OUT) Out of 3 years experience prescribed above, at least 1 year should have been spent as Divisional Manager. iii) Degree from a recognized University. For Transfer— The Head of the Department must fulfill the conditions prescribed under Clause (ii) and (iii) above. Note: 1(a) For the purpose of considering the cases of Officers for selection to the post of Regional Manager, an inter se seniority list of Class-I Senior Scale Officers of all departments, except the Officers of Medical Departments, shall be prepared based on the dates of their appointment to Class-I Junior Scale Service on regular basis with probationary rights duly retaining their relative seniority within the category to which they belong and the selections shall be made based on the seniority list thus prepared. (b) Provided that in respect of the Officers(s), who has not been selected in a particular selection(s) for promotion to Class-I Senior Scale Service and promoted as Senior Scale Officer later, based on a subsequent selection, the date of appointment of the Officer to Class-I Junior Scale Service, who is Junior most in the Class-I Senior Scale category to which he belongs, as on the date of his promotion and above to him in the seniority list of that category, shall be reckoned for the purpose of determining his seniority in the inter se seniority list of Class-I Senior Scale Officers of all departments.	Scale Officer. (Exclusive of the period of training, if any, as OUT) iii) No change. For Transfer:-- No change Note: No change
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		2(a)The Heads of Departments who are appointed exclusively to any particular category of Head of Department, in advance before their turn for promotion to the category of Regional Manager, in normal course based on the inter se seniority list of Class-I Senior Scale Officers, are not eligible for transfer as Regional Manager. (b) Provided that the Heads of Departments falling under Class 2(a) above can opt for being considered for appointment to the category of Regional Manager, based on their ranking in the inter se seniority list of Senior Scale Service, even while holding the post of Head of Department, equivalent to that of Regional Manager. Thereupon, they will become eligible for being transferred as Regional Manager and shall count their seniority in the category of Regional Manager from the date of such eligibility, without reference to the date of their promotion to the post of Head of the Department in their respective Department.	
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4. The post of Principal does not find place as one of posts in any category under the Service Regulations. But, as already stated above, it is a senior Scale Officer post under Class-I. The only point that remains for consideration is whether the application of clause (ii) of the eligibility conditions as mentioned above can be made applicable in the case of the petitioner for effecting promotions. Though the name of the petitioner was included in the seniority list of Senior Scale Officers, he did not discharge the duties of Divisional Manager/Deputy Chief Traffic Manager/Deputy Chief Mechanical Engineer for a period not less than three years out of minimum service of five years as Class-I Senior Scale

Officer. There appears to be an omission in the Service Rules. The petitioner already held the post of Class-I Senior Scale Officer for more than five years, but he did not hold the post as stated above for a minimum period of three years. He worked as Divisional Manager for a period of 1 year 10 months 25 days. Thereafter, he was in the equivalent cadre post of Principal. In view of the omission of including the cadre post of Principal not only in the Service Rules but also in the qualifications prescribed for the post of Regional Manager, it is for the Board of Directors to take a decision and this Court cannot give a finding in the absence of any clarity in the Service Rules. Regulation No.36 specifically provides that the power has to be exercised by the Board whenever any doubt arises as to the interpretation of any of the Regulations.

5. Since the petitioner rose from the post of Cleaner to the post of Senior Scale Officer and shortly retires from service on 30.09.2016, it is in the fitness of things that the Board of Directors of the Corporation shall take stock of the situation and take a decision with regard to the consideration of the case of the petitioner for promotion to the post of Regional Manager by considering the issue whether the post of Principal can be treated as equivalent to the post of Divisional Manager as specified in the qualification prescribed for the post of Regional Manager.

If the Board comes to the conclusion that the post of Principal is equivalent to the post of Divisional Manager and the petitioner is found eligible to be promoted, the case of the petitioner shall be considered for promotion by reverting the junior most Regional Manager. It is needless to observe that the Board of Directors shall take a decision as expeditiously as possible, but not later than three weeks from the date of receipt of a copy of this order.

6. At this stage, the learned Standing Counsel for the respondent Corporation points out that there is no approved Board for the Telangana State Road Transport Corporation except the Chairman appointed by the Government.

7. In the circumstances, in view of the exigency of occasion, the Managing Director along with the two other Executive Directors of the Corporation shall sit together and take a decision in the matter as aforesaid.

8. The Writ Petition is accordingly disposed of. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

12-08-2016
Gsn