

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.11243 of 2016

K.Nepoliyan .. Petitioner

Vs.

- 1.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.
- 2.The Union of India rep.by its
The General Manager,
Southern Railway,
Park Town, Chennai-600 003.
- 3.The Senior Manager
Printing and Stationery,
Ticket Printing Factory,
Southern Railway, Royapuram,
Chennai-600 013.
- 4.The Senior Section Engineer,
Ticket Printing Factory,
Southern Railway, Tiruchirappalli. .. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus calling for all the relevant records relating to the impugned order dated 24.03.2014 made in O.A.No.1295/2011 on the file of the 1st respondent by confirming the order dated 02.05.2011 made in Proceedings No.PB/533/10 on the file of the 3rd respondent, quash the same and consequently direct the respondents 2 to 4 to promote the petitioner herein to the post of Technician Grade 1 (Ticket Counter Grade 1) from 07.02.2011 onwards under the 4th respondent in the shortfall vacancy notified in the letter dated 05.06.2003 by considering the petitioner's last application/ representation dated 07.02.2011 with all benefits.

For Petitioner : Mr.S.Vijayakumar

For Respondents: Mr.P.T.Ramkumar for R2 to R4

ORDER

(Order of the Court was made by HULUVADI G.RAMESH, J.)

The petitioner entered the Railway service as Group-D Staff (Khalasi) and was initially posted in the Stores Department and while he was in the pay scale of Senior Khalasi of Rs.2,610-3,540 drawing the pay of Rs.3,475, he was transferred to the Ticket Printing Factory, Tiruchirappalli vide order dated 04.11.2003 on reversion as Khalasi in the pay scale of Rs.2,550-3,200. He was relieved from the Stores Department on 05.11.2003 and he joined the Ticket Printing Factory on 06.11.2003. Thereafter, he was promoted as Packer and Sorter in the scale of Rs.2,650-4,000 vide order dated 30.03.2005 and further promoted as Technician Grade III in the scale of Rs.3,050-4,590 (Ticket Counter Skilled) vide order dated 02.09.2006 and thereafter promoted as Technician Grade II in the scale of Rs.5,200-20,200 vide order dated 15.10.2008.

2.The grievance of the petitioner is that the next promotion for him was that of Technician Grade-I (Ticket Counter Grade-I) which has been denied to him, although he belongs to SC community and although a direction was given to the Heads of Departments to identify shortfall vacancies and to fill them up. The case of the petitioner is that vide letter dated 05.06.2003, shortfall vacancies for Ticket Counter Grade-I were notified and he was eligible for appointment to the said post, but he was not allowed to participate in the selection as the third respondent herein did not forward his application.

3.With the above background, the petitioner filed an application in O.A.No.1295 of 2011 before the first respondent Tribunal praying for quashing the proceedings of the third respondent dated 02.05.2011 rejecting his claim of promotion as Technician Grade I and for a direction to promote the petitioner to the post of Technician Grade I (Ticket Counter Grade I) in the shortfall vacancy. The Tribunal dismissed the said application on the ground that out of two shortfall vacancies (1 SC and 1 ST vacancy) which arose in 2003 in respect of Counter Grade II/TPF/TPJ, the said 1 SC vacancy was filled up by promoting one R.Loganathan and the other vacancy was filled up by promoting one P.Manohar on 10.04.2003 and both of them were seniors to the petitioner. Further, it was observed that at that point of time, the petitioner herein was junior to all those in the unit in that particular grade.

4.Challenging the said order passed by the Tribunal, the present writ petition has been filed.

5.The learned counsel for the petitioner has submitted that the first respondent Tribunal has erred in holding that the petitioner has failed to establish that he was senior to those promoted before him without considering the documents filed in support of the petitioner. He also submitted that the Tribunal has erred in not considering the representations made by the petitioner to prove that the vacancy available to promote the petitioner was very much in existence on that date itself as confirmed by the information given by the respondents themselves under the Right to Information Act vide Proceedings dated 01.04.2013. It is his further submitted that the two persons, viz.Loganathan and Manoharan who were appointed in the shortfall vacancies were not eligible for promotion as on the date of the application of the petitioner, even though the petitioner's date of appointment was on 26.04.1984. Stating so, he prayed for allowing this writ petition.

6.A counter affidavit has been filed on behalf of the respondents 2 to 4, in which it is stated that only on his willingness, the petitioner was transferred to the Ticket Printing Factory, Tiruchirappalli and due to the same, he was reverted from the post of Senior Khalasi to Khalasi by proceedings dated 04.11.2003 and he joined the transferred place on 05.11.2003. Thereafter he was promoted as Packer on 01.05.2005 and subsequently promoted as Technician III on 04.09.2006 and Technician II on 15.10.2008 by utilising the existing vacancy of SC, which was lying vacant for non-availability of employees belonging to SC community. The petitioner submitted a representation dated 07.02.2011 to consider and promote him as Technician-I, but it was rightly rejected by the Department vide order dated 02.05.2011 stating that one shortfall vacancy was filled by promoting the said Loganathan senior to the petitioner and the remaining vacancy has been kept vacant since there was no eligible ST employee and thus at that point of time there was no vacancy of Technician Grade I. It is further stated that considering the seniority aspect, the said R.Loganathan was thereafter promoted as Technician I on 06.08.2013 against the SC vacancy. Reiterating the submissions made in the counter, the learned counsel for the respondents 2 to 4 prayed for dismissing the writ petition.

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

8.One thing that has to be borne in mind is that

whenever a person is transferred from one Department to another, he becomes junior to the junior-most in the place where he is transferred. It is seen that only on his willingness, the petitioner was transferred to the Ticket Printing Factory, Tiruchirappalli. Thereafter, the petitioner was promoted as Packer on 01.05.2005, Technician III on 04.09.2006 and Technician II on 15.10.2008 in the SC category. The petitioner is under the wrong impression that those two persons, viz., Loganathan and Manoharan are not seniors to him. As per the seniority list of Ticket Printing Factory, Tiruchirappalli, as on 01.06.2011, the said R.Loganathan, who belongs to SC category, and P.Manohar, who also belongs to SC category, were already in the cadre of Technician Grade II on 10.04.2003 much earlier to the date of joining of the petitioner at the Ticket Printing Factory. The petitioner joined only on 05.11.2003 and thus it is clear that he is junior to the said two persons. It is also seen that the date of appointment in Railway Service for both Loganathan and Manohar is 26.02.1980, whereas the petitioner was appointed in the Railway Service only on 27.04.1984. It should also be noted that he joined the Ticket Printing Factory only on 05.11.2003, but he prayed to promote him in the shortfall vacancy notified in the proceedings dated 05.06.2003. Once he is transferred to another Department, he becomes junior to the junior-most in the transferred Department. It is also seen that by Order No.03/2014 dated 17.01.2014, the petitioner was promoted as Technician Grade I with effect from 01.11.2013 against CRC 2013 resultant / chain vacancies.

9. In view of the above stated circumstances, we are of the considered view that the order passed by the Tribunal does not require any interference. Accordingly, the writ petition is dismissed. No costs.

-s/d-
सत्यमेव जयते
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

KM

To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.

2.The General Manager,
Southern Railway,
Park Town, Chennai-600 003.

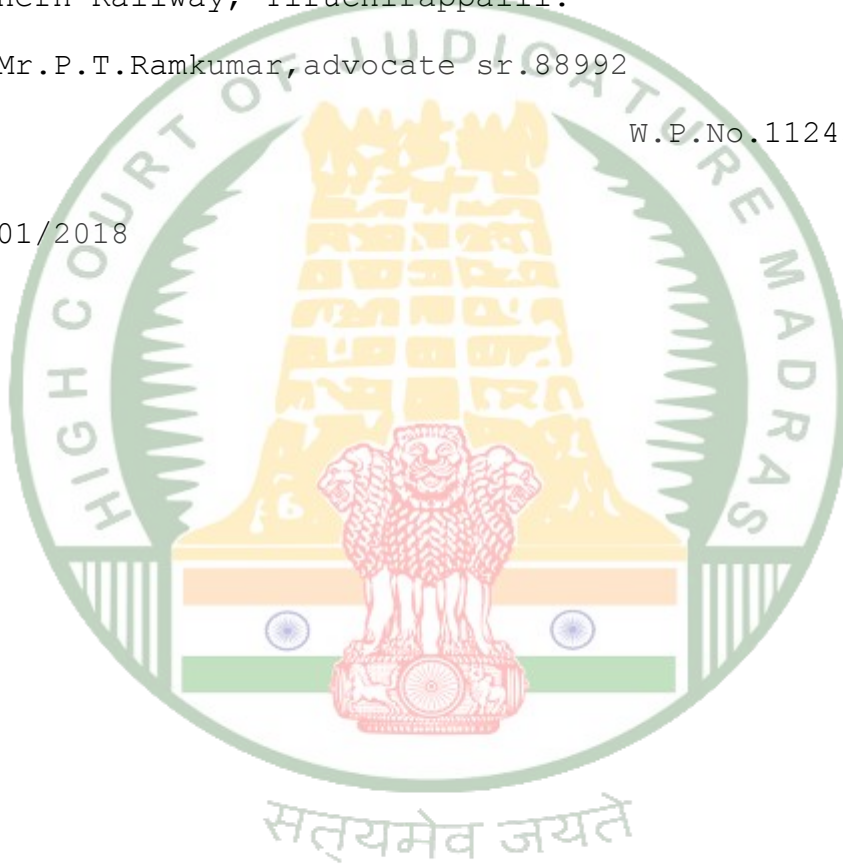
3.The Senior Manager
Printing and Stationery,
Ticket Printing Factory,
Southern Railway, Royapuram,
Chennai-600 013.

4.The Senior Section Engineer,
Ticket Printing Factory,
Southern Railway, Tiruchirappalli.

+cc to Mr.P.T.Ramkumar,advocate sr.88992

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