

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 19.01.2017

Delivered on: 23.02.2017

Coram

The Honourable Mr.Justice K.K.SASIDHARAN
and

The Honourable Mr.Justice V.PARTHIBAN

W.P.No.12606 of 2011
and M.P.No.1 of 2011

S.JOSEPH SELVARAJ

...PETITIONER

versus

1 UNION OF INDIA
REP BY THE SECRETARY
MINISTRY OF RAILWAYS
GOVT. OF INDIA NEW DELHI

2 THE GENERAL MANAGER
SOUTHERN RAILWAYS,
PARK TOWN, CHENNAI-3

3 THE CHIEF PERSONNEL OFFICER
SOUTHERN RAILWAYS PARK TOWN,
CHENNAI 3

4 M.K. SASIDHARAN PILLAI

5 V.NARAYANAN

6 A. RAMACHANDRAN

7 C.MUTHIAH

8 R.VINCENT

9 THE REGISTRAR
THE CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BRANCH, CHENNAI

...RESPONDENTS

Prayer: This Writ Petition is filed under Article 227 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the

order of the 9th respondent dated 9.11.10 made in O.A.No.625/2010 and to quash the same and consequently direct the respondents to redraw the panel No. P (G) 532/1/selection/Regular/70%(2009-12)/vol II dated 23.4.2010 including the petitioner at the appropriate place in the seniority list and promote him to the post of Asst Divisional Engineer/Asst Executive Engineer with retrospective effect from the earlier date of selection.

For Petitioners: Mr. F.B.Benjamin George

For Respondents: Mr.V.Radhakrishnan, SC for
Mr.V.Haribabu for R1toR3
No Apperance for RR 4,5,7 & 8
R9 - Tribunal

ORDER

V.PARTHIBAN, J.

This writ petition has been filed against the order passed by the Central Administrative Tribunal, Madras Bench (in short, 'the Tribunal') in O.A.No.625 of 2010 dated 9.11.2010 dismissing the application filed by the petitioner herein who was the employee of the Southern Railway.

2. The petitioner has approached the Tribunal seeking for the following relief:

"To set aside the order of the respondent vide No. P (G) 532/1/selection/Regular/70%(2009-12)/vol II dated 23.4.2010 and consequently, direct the respondent to prompt the applicant to the post of Assistant Executive Engineer/Asst Divisional Engineer/Asst Executive Engineer (Group B Post)."

3. According to the petitioner, he was working as selection Engineer in track machines unit and next promotion was to the post of Assistant Executive Engineer/Assistant Divisional Engineer (Technical). A selection was conducted for the appointment to the post of Assistant Executive Engineer and the petitioner participated in the written examination on 10.01.2010 and was declared successful along with several other candidates. However, ultimately the respondent Railways promoted 48 candidates and the petitioner's name did not find place in the promoted list. According to him, one employee, namely, Sri Shasitharan Pillai who was his junior, was promoted and therefore, he was unjustly overlooked. In that view of the matter, the petitioner approached the Tribunal, seeking the aforesaid relief.

4. The respondent Railways refuted the contention of the petitioner that although the said employee Sasitharan was originally shown as junior to the petitioner, his seniority came to be subsequently revised vide order dated 25.11.2009 pursuant to the orders issued by the Central Administrative Tribunal, Ernakulam Bench in O.A.No.1013 of 1997. According to the respondent Railways, seniority of Sasitharan was rectified and he was placed at Sl.No.100 while the petitioner was placed at Sl.No.106 and therefore, the petitioner cannot have any grievance against the said Sasitharan whose seniority has been rectified correctly and placed above the petitioner.

5. After taking note of the submissions of the parties, the learned Tribunal dismissed the original application on the ground that revision of seniority of the said Shasitharan was in the pursuance of the directions of the learned Tribunal as well as the order passed by the Kerala High Court and the seniority position has not been disputed by the petitioner. Since only 48 vacancies were available out of 70 candidates who were elected and the petitioner's name did not come within the notified 48 vacancies and hence he could not be included in the final selected list of promotees. Since the appointment to the post of Assistant Executive Engineer was also on the basis of the seniority, such seniority factor could not be ignored. On the said reasoning, the original application came to be dismissed. As against the dismissal order, the present Writ Petition has been filed.

6. Heard the learned counsel appearing for the rival parties and perused the entire materials available on record.

7. Shri V.Radhakrishnan, learned senior counsel appearing for the Railways would contend that there was no merit in the Writ Petition since the learned Tribunal had passed a well considered order and the petitioner cannot have any grievance as to the promotion of said Sasitharan as admittedly, he was senior to the petitioner. Moreover, the learned senior counsel also contended that the said Sasitharan was not a party before the Tribunal and therefore, the application, in fact, ought to have been dismissed for non-joinder of necessary and proper parties. In any event, he contended that there was no merit in the Original Application and therefore, the learned Tribunal rightly dismissed the Original Application, which requires no interference.

8. On going through the well considered order of the Tribunal and on consideration of the contentions put forth by the learned senior counsel for the Railways, we do not find any merit in the claim of the petitioner and as such, we do not find

any infirmity in the order of the learned Tribunal in order to interfere with the same.

Accordingly, we dismiss the Writ Petition as devoid of merits. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

suk

To

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MADRAS BRANCH, CHENNAI

+1cc to Mr.Hari Babu, Advocate, S.R.No.11422

+1cc to Mr.Benjamin George, Advocate, S.R.No.11679

RR(CO)

RS(09/03/2017)

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Pre Delivery order in
W.P.No.12606 of 2011