

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 10.02.2017	Date of pronouncing Judgment 27.02.2017
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CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE V. PARTHIBAN

Writ Petition No.19749 of 2011

G.PUGAZHENDHI

.. Petitioner

Versus

- 1 THE GENERAL MANAGER
SOUTHERN RAILWAY,
PARK TOWN, CHENNAI-600 003.
- 2 THE DIVISIONAL PERSONAL OFFICER
SOUTHERN RAILWAY, TRICHY-1.
- 3 THE DIVISIONAL MECHANICAL ENGINEER
SOUTHERN RAILWAY, DIESEL SHED,
GOLDEN ROCK, TRICHY-4.
- 4 D.JAYARAJU
- 5 THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL,
MADRAS BENCH,
HIGH COURT CAMPUS
CHENNAI - 600 104.

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the order passed by the 5th Respondent in O.A.No.296 of 2009 dated 28.03.2011 and consequently, quash the order of the 2nd Respondent in T/P.535/IV/DSL/Court dated 28.07.2008 and direct the 2nd Respondent to fix correct seniority of the Petitioner above the fourth Respondent and promote him with effect from 01.11.2003 as Grade - I Fitter with all attendant and other benefits.

For Petitioner : Mr.A.Thirumurthy
For Respondents 1 to 4 : Notice served
No appearance
R5 : Tribunal

ORDER

(Order of the Court was delivered by V.PARTHIBAN,J.)

The Writ Petition is filed against the order passed by the Central Administrative Tribunal, Madras Bench in O.A.No.296 of 2009 dated 28.03.2011 dismissing the Application filed by the petitioner herein.

2. The petitioner herein approached the learned Tribunal seeking the following reliefs:-

"To call for the records T/P.535/IV/DSC/Court dated 28.07.2008 and quash the same and direct the 2nd Respondent to fix the correct seniority of the applicant above the fourth Respondent and promote him with effect from 01.11.2003 as Grade - I Fitter with all attendant and other benefits."

3. According to the petitioner, he was appointed as Loco Khalasi on 05.04.1983 and promoted as Grade-III Fitter on 17.05.1990 and again promoted as Grade-II Fitter with effect from 05.09.1998. However, the promotion as Grade-II Fitter was shown to be only from 19.09.2000 instead of 05.09.1998 and because of that, the petitioner was shown junior to the fourth respondent herein. Initially, it appears that the petitioner approached the learned Tribunal for the relief, but his application was disposed of with the direction to consider his representation and the representation was considered and rejected by the second respondent by order dated 28.07.2008. The said rejection order is the subject matter of challenge before the learned Tribunal. On behalf of the official respondents, it was contended that the fourth respondent herein was promoted to various grades, ahead of the petitioner, and he was always shown senior to the petitioner as such, the petitioner cannot have any grievance in the matter of fixation of seniority vis-a-vis, the fourth respondent herein. As regards the contention of the petitioner that his appointment as Grade-II Fitter with effect from 05.09.1998, it was clarified that it was not a regular promotion to Grade-II Fitter and it was only the appointment in the ex-cadre post and the appointment in the said post was purely on temporary basis and only when regular vacancy arose in Grade-II, the petitioner was promoted and posted on 19.09.2000. In fact, the learned Tribunal has extracted the comparative service particulars of

both the petitioner and the fourth respondent herein in paragraph-4 of the impugned order, which is extracted below:-

Description	Applicant	Fourth respondent
Absorbed as Loco Khalasi	05/04/1983	22/12/1982
Date of entry in the scale of Rs.260-400-3050-4590	17/05/1990	05/04/1984
Date of entry as SPMM/II	05/09/1998	-
Date of entry as Gr.II	19/09/2000	21/04/1999
Date of entry as Gr.I	10/07/2006	01/11/2003

4. From the above service particulars, it is very clear that the fourth respondent has always been appointed much earlier to the petitioner herein and by no stretch of legal standard, the petitioner can seek to fix the seniority above the fourth respondent. Even the appointment date 05.09.1998 was sought to be properly explained by the official respondent. Moreover, it could also be seen that even appointment to Grade-I level, the fourth respondent had been appointed on 01.11.2003, whereas the petitioner was appointed only on 10.07.2006. Such being the case, there was absolutely no cause of action for the petitioner to seek the relief as prayed for in the Original Application. In such circumstances, the learned Tribunal rightly dismissed the application.

5. The learned counsels appearing for either party, reiterated their submissions. The counsel for the petitioner is unable to come forward with any plausible argument in support of the petitioner's claim. The entire grievance of the petitioner seems to be completely misconceived and has no legal legs to stand on. In such circumstances, We do not find any scope for interference in the order passed by the learned Tribunal. Therefore, the Writ Petition fails and dismissed. No costs.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mra

To

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+1 cc to M/s.Thirumurthy Advocate sr12704

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aa07/03/2017



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