

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

CORAM

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

W.A.Nos.1635 to 1637 of 2016 and
C.M.P.Nos.20685 to 20690 of 2016
and

Rev.Appl.SR.Nos.56718, 56716 and 56720 of 2017 and
C.M.P.Nos.15144 to 15146 of 2017

W.A.Nos.1635 to 1637 of 2016:

1.S.Balasubramanian
2.A.Arumugam
3.S.S.Rajmohan
4.R.Selvaraju
5.R.Mohan
6.R.Mahendran
7.R.Rajanbabu
8.S.Parthipan
9.S.Rajeshwaran

... Appellants in all the writ
appeals

-vs-

V.Lawrance

... 1st respondent in W.A.No.
1635 of 2016

M.Kanagaraju

... 1st respondent in W.A.No.
1636 of 2016

V.Baladhandapani

... 1st respondent in W.A.No.
1637 of 2016

The Managing Director,
The Tamil Nadu State Transport Corporation
(Coimbatore) Ltd., No.37, Mettupalayam Road,
Coimbatore-43.

The Administrator,
TNSTC Employees Pension Fund Trust,
Tiruvallur Home, SETC Complex,
No.2, Pallavan Salai, Chennai-600 002.

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The Additional Chief Secretary to Government
and Chairman of All STUS,
Transport Department,
Secretariat, Fort St.George,
Chennai-600 009.

... 2nd to 4th respondents in
all the writ appeals

CMP. NO.15144 TO 15146/17 IN
Rev.Appl.SR.Nos.56718, 56716 and 56720 of 2017:

V.Lawrance ... Petitioner in Rev.Appl.SR.
No.56718 of 2017

M.Kanagaraju ... Petitioner in Rev.Appl.SR.
No.56716 of 2017

V.Baladhandapani ... Petitioner in Rev.Appl.SR.
No.56720 of 2017

- Vs -

1.The Managing Director,
The Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
No.37, Mettupalayam Road,
Coimbatore-43.

2.The Administrator,
TNSTC Employees Pension Trust,
Tiruvallur Home, SETC Complex,
No.2, Pallavan Salai, Chennai-600 002.

3.The Additional Chief Secretary to Government
and Chairman of All STUS,
Transport Department,
Secretariat, Fort St.George,
Chennai-600 009.

4.S.Balasubramanian

5.A.Arumugam

6.S.S.Rajamohan

7.R.Selvaraju

8.R.Mohan

9.R.Mahendran

10.R.Rajanbabu

11.S.Parthipan

12.S.Rajeswaran

.. Respondents in all the
review applications

W.A.No.1635 of 2016 filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.21047 of 2016 dated 21.06.2016.

W.A.No.1636 of 2016 filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.21048 of 2016 dated 21.06.2016.

W.A.No.1637 of 2016 filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.21049 of 2016 dated 21.06.2016.

Rev.Appl.SR.No.56718 of 2017 filed under Section 114 of C.P.C.to review the order passed by this Court in W.A.No.1635 of 2016 dated 08.06.2017.

Rev.Appl.SR.No.56716 of 2017 filed under Section 114 of C.P.C.to review the order passed by this Court in W.A.No.1636 of 2016 dated 08.06.2017.

Rev.Appl.SR.No.56720 of 2017 filed under Section 114 of C.P.C.to review the order passed by this Court in W.A.No.1637 of 2016 dated 08.06.2017.

CMP.15144/17 TO 15146/17: Petitions filed U/s. 5 of the Limitaion act to condone delay of 10 days in filing Rev.Apple Sr56718, 56716 & 56720/17

PRAYER IN WP.21047 TO 21049/16

writ petition filed Under Article 226 of the Constitution of India to issue writ of mandmus to direct the erspondents to consider the namd of the petitoners in the SDM (Senior Deputy Manager) promotional panel list on the basis of his representation dated 13.06.2016.

For Appellants :: Mr.V.Govarthanan for
in all writ appeals appellants 1 to 4, 6 and 7

Mr.E.Mohammed Abbas for
5th appellant in all writ appeals

For Respondents :: Mr.D.S.Ramesh for R1
in all writ appeals Mr.P.Paramasivadoss for R2

For petitioner in :: Mr.D.S.Ramesh
all Rev.Applications

COMMON JUDGMENT
(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

The first respondent in W.A.No.1635 of 2017 is the Deputy Manager in the second respondent Transport Corporation, ie., Tamil Nadu State Transport Corporation (Coimbatore) Limited. He was originally employed in Cheran Transport Corporation (Coimbatore Division-I) Ltd. and the said Corporation was divided into two divisions, viz. Coimbatore Division-I and Coimbatore Division-III (Formerly known as Mahakavi Bharathiyar Transport Corporation) and the employees of the parent Corporation were sent to Division III at Ooty on the basis of their option and subsequently both the Corporations were amalgamated and now there is only one Corporation, viz. Tamil Nadu State Transport Corporation (Coimbatore) Ltd. After amalgamation, the Transport Corporation published the seniority list in No.2439/E19/ PD II/TNSTC (CBE DIV-I) 2001 dated 01.10.2001. After two months, another seniority list was issued by the Transport Corporation in No.2547/E1/PD II/TNSTC (CBE DIV I)/2001 dated 28.11.2001. In this list, several juniors have been placed before the seniors like that of the first respondent, even though the juniors are only diploma holders. In view of the same, the first respondent and some other seniors have come down in the seniority ranking list and hence they challenged the revised seniority list dated 28.11.2001 by filing writ petitions. The first respondent challenged the revised seniority list by filing W.P.No.14390 of 2002 and the same was allowed by this Court on 02.01.2007 directing the second respondent Transport Corporation to prepare a seniority list from the joining date of the employees with the parent Corporation. The appeal filed by the Corporation against the order passed in the said writ petition was dismissed by this Court, against which the Corporation preferred an SLP before the Hon'ble Supreme Court in the year 2010 and the matter was pending for quite a long time.

2.In the mean time, several senior employees got retired from service. While so, on 24.10.2015, a panel list for the promotion of Senior Deputy Manager was initiated and the same was released vide vide by way of a Government Order in G.O.(Ms) No.11 dated 11.02.2016. It is stated by the petitioner that he filed a writ petition before this Court in W.P.No.5096 of 2016 seeking a direction to include his name in the SDM Promotional Panel List and the same is pending.

3.The first respondent in the other two writ appeals, also stands on a similar footing as that of the first respondent in W.A.No.1635 of 2016.

4. With the above background, the first respondent in these appeals filed writ petitions in W.P.Nos.21047, 21048 and 21049 of 2016 to consider their names in the Senior Deputy Manager Promotional Panel List on the basis of their representation dated 13.06.2016. The learned single Judge of this Court passed an order in those writ petitions on 21.06.2016 closing the writ petitions, recording the statement made by the learned standing counsel for the Transport Corporation that since SLP is pending before the Hon'ble Supreme Court, the Corporation will only draw the list and will not proceed further with publication etc.

5. Challenging the common order passed in the writ petitions, the present writ appeals have been filed by the appellants who are in no way connected to the seniority issues with the first respondent, but on the ground that the order passed in the writ petitions is unnecessarily hindering their promotional aspects.

6. The learned counsel for the appellants in the writ appeals, have submitted that the appellants are the senior most available Deputy Managers all over the State and they are eligible to be promoted to the next avenue of promotion. It is their submission that the promotion of the appellants to the next level is placed under abeyance in view of the order passed in W.P.No.21047 to 21049 of 2016 dated 21.06.2016 recording the submission made by the learned standing counsel appearing on behalf of the Transport Corporation. It is their further submission that even though the writ petitions filed in W.P.Nos.14384 of 14390 of 2002 seeking promotional chances and seniority have been allowed by order dated 02.01.2007, the order was not implemented without any rhyme or reason. Stating so, the learned counsel for the appellants have prayed for quashing the impugned common order passed in the writ petitions.

7. Per contra, the learned counsel appearing for the first respondent in the appeals has submitted that even though the first respondent in these appeals, made several representations to the Transport Corporation to revise the seniority and to place them above their juniors by advancing their promotional dates of the Assistant Manager, SGAM and Deputy Manager on par with their juniors, the revised seniority list has not been published so far and only the old seniority list published on 29.01.2017 was presented before the Court on 10.04.2017. Stating so, the learned counsel prayed for a direction to revise the seniority list taking into account the seniority of the Parent Corporation with all service benefits and to advance the promotional dates of the Assistant Manager, SGAM and Deputy Manager on par with the juniors as per the orders of this Court and to dismiss the writ appeals.

8.We have also heard the submissions made by the learned counsel for the second respondent-Transport Corporation on the submissions made by the learned counsel for the appellants.

9.When these appeals came up before this Court on 08.06.2017, after hearing the arguments, this Court passed an interim order observing that since one of the contesting respondents is agitating for the post at Sl.No.10, there would not be any impediment for filling up the first 9 posts and accordingly, the Corporation was granted liberty to fill up the first 9 posts, however subject to the outcome of the writ appeals. It was also observed that the contesting respondents have impleaded only one person and although they claim that all other persons junior to them were promoted, they have failed to implead all of them and hence, they have to give up their right against the other promoted persons. Against the said order, Rev.Appl.SR.Nos.56718, 56716 and 56720 of 2017 have been filed and the miscellaneous petitions in C.M.P.Nos.15144 to 15146 of 2017 for condoning the delay in filing those review applications, have been listed today before us.

10.It appears that originally there was one Corporation by name Cheran Transport Corporation (Coimbatore Division-I) Ltd. and the said Corporation was divided into two divisions, viz. Coimbatore Division-I and Coimbatore Division-III (Formerly known as Mahakavi Bharathiyar Transport Corporation) and the employees of the parent Corporation were sent to Division III at Ooty on the basis of their option and subsequently both the Corporations were amalgamated on 07.11.2000 and now there is only one Corporation, viz. Tamil Nadu State Transport Corporation (Coimbatore) Ltd. It is also seen from the rejoinder affidavit filed by the fifth appellant in response to the counter affidavit filed by the first respondent herein, that M/s.Jeeva Transport Corporation, Erode (later known as TNSTC (CBE) Limited, Division-II) was amalgamated with TNSTC (CBE: Div-I) with effect from 30.12.2003.

11.The case of the first respondent in these writ appeals is that a seniority list dated 01.10.2001 has been published after amalgamation of TNSTC, Coimbatore Division-I and Coimbatore Division-III and thereafter, another seniority list dated 28.11.2001 has been published and that as per the second seniority list, several juniors came before seniors and the first respondent in these writ appeals came down in the seniority rank list. Thereafter, writ petitions have been filed and directions have been issued by this Court to prepare a seniority list from the joining date of the employees with the parent Corporation, but the same has not been complied with. Because of the inaction on the part of the Transport Corporation, their promotions to the higher posts have been

affected. It has to be borne in mind that while carrying out division of the Corporation into two bodies / amalgamation of two Corporations into one body, normally the seniority of the employees will be changed and due to the same, some persons would be benefited and some persons would be affected. The persons who have been affected would seek for a direction not to give promotion to the another set of persons. The requests of the individuals would vary from each other. In the present case, anomaly has arisen on account of the inaction on the part of the Transport Corporation in not complying with the orders passed by this Court and the Apex Court. But, it is seen that many senior employees have attained the age of superannuation and got retired. At this length of time, we are not inclined to issue any directions in respect of the delay caused in the promotional process, due to the inaction on the part of the Transport Corporation.

12. In view of the above stated circumstances, we are inclined to direct the second respondent Transport Corporation to draw a revised seniority list as on the date of last amalgamation, considering the positions held by the employees concerned, in accordance with law, within a period of two months from the date of receipt of a copy of this judgment. Opportunity shall be given to each of the concerned employees to have a say in the matter, for fixing the seniority in accordance with law.

13. The writ appeals are disposed of accordingly. Consequently the connected miscellaneous petitions are closed. No costs.

14. C.M.P.Nos. 15144 to 15146 of 2017 have been filed to condone the delay in filing the review applications challenging the interim order 08.06.2017 passed by this Court in the writ appeals. Now that we have already disposed of the writ appeals and hence there is no question of reviewing the interim order passed by this Court. Accordingly, C.M.P.Nos. 15144 to 15146 of 2017 are dismissed and consequently the review applications in Rev.Appl.SR.Nos. 56718, 56716 and 56720 of 2017 are rejected. No costs.

Sd/-

Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Managing Director,
The Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
No.37, Mettupalayam Road,
Coimbatore-43.

2.The Administrator,
TNSTC Employees Pension Fund Trust,
Tiruvallur Home, SETC Complex,
No.2, Pallavan Salai, Chennai-600 002.

3.The Additional Chief Secretary to Government
and Chairman of All STUS,
Transport Department,
Secretariat, Fort St.George,
Chennai-600 009.

+3cc to Mr.D.S.RAMESH Advocate, S.R.No. 86169 to 86171

+1cc to Mr.PARAMASIVADOSS Advocate, S.R.No. 86554

+1cc to Mr.MOHAMED ABBAS Advocate, S.R.No. 86497

W.A.Nos.1635 to 1637 of 2016

and

C.M.P.Nos.20685 to 20690 of 2016

and

Rev.Appl.SR.Nos.56718, 56716

and 56720 of 2017 and

C.M.P.Nos.15144 to 15146 of 2017

PPA (CO)
TR(02/01/2018)

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