

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2017

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.39279 of 2016 & W.M.P. No.33628 of 2016

N. Ramesh

... Petitioner

vs.

- 1 The State of Tamil Nadu
represented by
the Principal Secretary to Government
Transport Department
Fort St. George
Chennai 600 009
- 2 The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Ltd.
Salem - 7
- 3 The Convenor
Career Planning Committee
TNSTC Employees' Pension Trust
Thiruvalluvar House
Pallavan Salai
Chennai 600 002

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to grant Selection Grade Assistant Manager promotion to the petitioner on completion of 6 years of service, i.e., with effect from 11.01.1999 and consequently, direct the respondents to re-fix the petitioner's seniority as Deputy Manager and Senior Deputy Manager over and above his juniors for inclusion of his name in the panel for promotion to the post of Managing Director in State Transport Corporations within a time frame.

For petitioner :Mr. K.M. Ramesh

For R1 :Mr. V. Jayaprakash Narayanan
Special Government Pleader

For RR 2 & 3 :Mr. R.K. Gandhi

ORDER

This writ petition has been preferred seeking a writ of mandamus directing the respondents to grant Selection Grade Assistant Manager promotion to the petitioner on completion of 6 years of service, i.e., with effect from 11.01.1999 and consequently, direct the respondents to re-fix his seniority as Deputy Manager and Senior Deputy Manager over and above his juniors for inclusion of his name in the panel for promotion to the post of Managing Director in State Transport Corporations within a time frame.

2 The case of the petitioner in a nutshell is as follows:

2.1 The petitioner joined the post of Assistant Branch Manager (Technical) Trainee in the erstwhile Kattabomman Transport Corporation, Tirunelveli, on 07.01.1985. After assessing his satisfactory performance, his services were regularised on 01.01.1986. Next year, he made a request for transfer to Annai Sathya Transport Corporation, Dharmapuri, which was also accepted and accordingly, he was transferred on 02.09.1987. Thereafter, on 12.01.1993, he was promoted as Assistant Manager.

2.2 According to the petitioner, as on 11.01.1999, he had completed six years of Qualifying Service for elevation to next higher cadre as Selection Grade Assistant Manager as per the guidelines issued in the Government letter dated 09.11.1987. Thereafter, even in the 21st Finance Committee held on 09.02.2001, a proposal was made to elevate the petitioner and the said proposal was also approved in the said meeting. Further, in the 64th Board Meeting, a proposal to elevate the petitioner was placed and the same was also approved and the recommendation of the Board to elevate the petitioner to the higher level was sent to the first respondent vide letter dated 06.04.2001.

2.3 When the matter was pending with the first respondent, the Government issued revised guidelines on 15.09.2003 fixing 8 years as Qualifying Service instead of 6 years. Subsequently, the Government also issued approval order for elevating the petitioner to the next higher grade on 01.12.2006. Therefore, the petitioner's grievance is that when the 21st Finance Committee has approved his case for elevation to the next higher grade as Selection Grade Assistant Manager as per the guidelines

dated 09.11.1987, the respondents cannot apply the revised guidelines with retrospective effect against him for the reason that the decision to elevate him to the next higher grade as Selection Grade Assistant Manager was placed before the 21st Finance Committee and the same was also approved on 09.02.2001, which is also much prior to the revised guideline that was issued on 15.09.2003. When the said revised guideline was approved on 04.12.2006, the proposal to elevate the petitioner was again approved in the 64th Board Meeting held on 07.03.2001. Therefore, the petitioner should be elevated on completion of six years of Qualifying Service to the next higher grade as Selection Grade Assistant Manager.

3 A detailed counter affidavit has been filed by the second respondent.

4 Mr. V. Jayaprakash Narayanan, learned Special Government Pleader appearing for the first respondent and the learned Standing Counsel appearing for respondents 2 and 3 would submit that the petitioner's claim being belated by more than a decade, the same cannot be entertained at this stage. They would further contend that when the policy followed by the Career Planning Committee shows 8 years as Qualifying Service for elevation to the next higher grade as Selection Grade Assistant Manager, the petitioner cannot question the same.

5 But, this Court is not inclined to accept the contention put forth by the respondents for more than one reason. Firstly, as on 11.01.1999, the petitioner had completed 6 years of Qualifying Service for elevation to the next higher grade as Selection Grade Assistant Manager as per the then existing guideline dated 09.11.1987. Secondly, in the 21st Finance Committee Meeting held on 09.02.2001 also, the petitioner's elevation to the next higher grade was approved. Again, in the 64th Board Meeting, a proposal to elevate the petitioner was placed and the same was approved on 07.03.2001. That apart, the Government issued revised guidelines for elevation to the next higher grade only on 15.09.2003 altering the Qualifying Service of 6 years into 8 years and the same was approved on 04.12.2006. Meanwhile, many of the petitioner's juniors also were given the benefit of elevation to the next higher grade as Selection Grade Assistant Manager.

For all the aforementioned reasons, this Court is of the considered view that the petitioner is entitled to succeed and accordingly, this writ petition is allowed directing the

respondents to grant Selection Grade Assistant Manager promotion to the petitioner on his completion of Qualifying Service of 6 years, viz., with effect from 11.01.1999 within a period of eight weeks from the date of receipt of a copy of this order. Needless to mention that the petitioner is entitled to get the consequential benefits by refixing his seniority as Deputy Manager and Senior Deputy Manager over and above his juniors. Costs made easy. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Principal Secretary to Government,
Transport Department,
Fort St. George,
Chennai 600 009.
- 2 The Managing Director,
Tamil Nadu State Transport Corporation,
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Salem - 7.
- 3 The Convenor,
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TNSTC Employees' Pension Trust,
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Pallavan Salai,
Chennai 600 002.

+1cc to Mr.R.K.Gandhi, Advocate Sr.25975
+1cc to Mr.K.M.Ramesh, Advocate Sr.25529
+1cc to the Government Pleader Sr.25665

W.P. No.39279 of 2016

nm[co]
srg 28/04/2017