



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.01.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.A. [MD] .No.1279 of 2013
and
M.P. (MD) .No.2 of 2013

- 1.The General Manager,
Tamil Nadu State Transport Corporation,
Nagercoil Region, Nagercoil,
Kanyakumari District.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division, Bye-pass Road, Madurai,
Now, the Managing Director,
Tamil Nadu State Transport Corporation,
Tirunelveli Ltd., Tirunelveli. : Appellants/Respondents 1 & 2

Vs.

- 1.M.Ayyadurai, TM (Special) EDP No.2710
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTM-1],
Nagercoil, Kanyakumari District.
- 2.R.Stephan TM EDP No.6155
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.
- 3.R.R.Krishnan TM EDP No.7132
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.
- 4.D.Sreekandan,
2.R.Stephan TM EDP No.7133,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.



5.N.Chandrabose TM EDP No.7134
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

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6.V.Paulmanickam, TM EDP No.3050,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

7.A.Kandasamy TM EDP No.6151,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

8.N.Kasivisvanathan, TM EDP No.5441,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

9.N.Nallasivan Pillai, TM EDP No.6162,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

10.M.Äyyappan, TM EDP No.5431,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

11.V.S.Murugesan, TM EDP No.4319,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

12.M.Murugan, TM EDP No.4055,
Tamil Nadu State Transport Corporation,
Nagercoil Region [TVR],
Nagercoil, Kanyakumari District.

13.S.M.Nagarajan, TM EDP No.3054,
Tamil Nadu State Transport Corporation,
Nagercoil Region [KKD],
Nagercoil, Kanyakumari District.

14.N.Jayakumaran, TM EDP No.4670,
Tamil Nadu State Transport Corporation,
Nagercoil Region [TVR],
Nagercoil, Kanyakumari District.



15.T.Gnanaseelan, TM EDP No.7176
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTW-S],
Nagercoil, Kanyakumari District.

16.T.Gnanaprakasam, TM EDP No.4704,
Tamil Nadu State Transport Corporation,
Nagercoil Region [RTM-1],
Nagercoil, Kanyakumari District.

: Respondents/
Respondents 2 to 16

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 25.02.2013 made in W.P.(MD).No.10890 of 2010, on the file of this Court.

Prayer in WP(MD). 10890/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ or direction more particularly in the nature of a writ of CERTIORARIFIED MANDAMUS calling for the records relating to the proceedings of the 2nd Respondent in 5640/A3/TNSTC/NGL/2008 dated 20.07.2010 and to quash the same and direct the Respondents 1 and 2 to appoint/promote the Petitioner as Junior Engineer, as per the seniority list dated 05.08.2008 published by the 2nd respondent.

For Appellant : Mr.K.Sathya Singh

For Respondent No.1 : Mr.J.Ashok

For Respondent Nos.2 to 16 : No Appearance

JUDGMENT

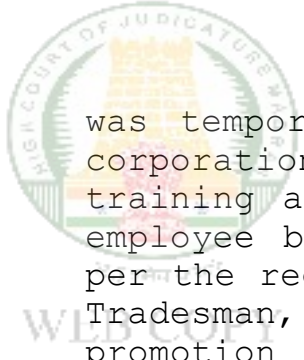
[Judgment of the Court was made by **R.SUBBIAH, J.**]

This Writ Appeal has been filed by the Tamil Nadu State Transport Corporation as against the order, dated 25.02.2013, made in W.P.(MD).No.10890 of 2010.

2. The said Writ Petition was filed by the first respondent herein challenging the order, dated 20.07.2010, passed by the second appellant herein and for a direction to the appellants to appoint/promote the first respondent herein as Junior Engineer, as per the seniority list dated 05.08.2008, published by the second appellant.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The case of the first respondent/Writ Petitioner is that he



was temporarily appointed as Junior Tradesman in the appellants corporation on 01.02.1982. Subsequently, after completion of training and serving as probationary, he was made as a permanent employee by the second appellant with effect from 01.02.1983. As per the regulation, governing the appellants corporation, a Junior Tradesman, on completion of six years of service, shall be given promotion as Assistant Tradesman, [first review] and thereafter, on completion of eight years of service, an Assistant Tradesman shall be given promotion as Tradesman, [second review] and thereafter, a Tradesman is entitled to be promoted as Senior Tradesman, on completion of ten years of service, [third review]. The first respondent was promoted as Assistant Tradesman by the second appellant herein, on 01.08.1989 and subsequently, he was given further promotion as Senior Tradesman by the second appellant, on 01.02.2008.

4. It is the further case of the first respondent that as per the Service Rules, existing in the appellants corporation, a Tradesman is eligible to be promoted as Junior Engineer on completion of five years of service as Tradesman. A person, who possesses Diploma in Mechanical Engineering, alone is eligible to be promoted as Junior Engineer. According to the first respondent, he is a Diploma Holder in Mechanical Engineering, having 12 years of experience as Tradesman and Senior Tradesman and thus, he is fully eligible to be promoted as Junior Engineer in the appellants Corporation. While so, the second appellant Corporation published a Seniority List of Tradesmen and called for objection, on 05.02.2008. The name of the first respondent found a place at serial No.3 in the seniority list, published by the second appellant. However, all of a sudden, the second appellant, through his communication dated 13.06.2010, published a tentative seniority list of Technical Staff, who possessed Diploma qualification, in which the first respondent was placed at serial No.29. The first respondent submitted his objection for the same. In spite of the same, without considering the objections raised by the first respondent, the second appellant issued the impugned proceedings dated 20.07.2010. Challenging the same, the first respondent filed the said Writ Petition for the relief stated supra.

5. The learned Single Judge of this Court, by order dated 25.02.2013, while disposing of the said Writ Petition, directed the appellants herein to consider and promote the first respondent herein as Junior Engineer, as per the seniority list published during August 2008, in terms of the recommendation already made by the second appellant to the first appellant and pass appropriate orders within a period of two months from the date of receipt of a copy of the order. Aggrieved over the same, the appellants Corporation have come up with this Writ Appeal.

6. The learned counsel for the appellants Corporation



submitted that the learned Single Judge has not taken into account the material aspect that as per the Service Rules of the Transport Corporation, promotion shall be given, calculating the service from the date of passing the diploma and not from the ordinary seniority, viz., from the date of joining in service.

7. The learned counsel for the first respondent submitted that the learned Single Judge directed the appellants Corporation to consider and promote the first respondent herein as Junior Engineer, as per the seniority list published during August 2008, taking into consideration of the recommendation already made by the second appellant to the first appellant. He further submitted that the similarly placed persons, serving in other corporations, like that of the first respondent, were given promotion as Junior Engineers. Thus, the order passed by the learned Single Judge does not warrant any interference at the hands of this Court.

8. We have considered the above submissions made on either side and we have also perused the records carefully.

9. In our considered view and as rightly contended by the learned counsel for the first respondent, based on the recommendation already made by the second appellant to the first appellant, the learned Single Judge has rightly come to the conclusion and directed the appellants Corporation to consider and promote the first respondent herein as Junior Engineer, as per the seniority list published during August 2008. Therefore, we not find any compelling circumstance warranting this Court to make interference in the order passed by the learned Single Judge. Thus, the Writ Appeal is liable to be dismissed.

10. In the result, the order dated 25.02.2013 made in W.P. (MD).No.10890 of 2010, is upheld and the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

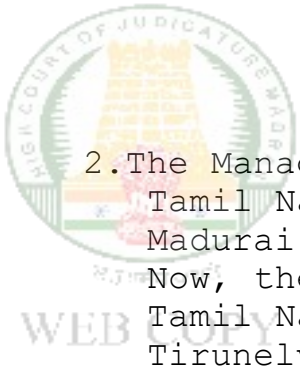
Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The General Manager,
Tamil Nadu State Transport Corporation,
Nagercoil Region, Nagercoil,
Kanyakumari District.



2.The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division, Bye-pass Road, Madurai,
Now, the Managing Director,
Tamil Nadu State Transport Corporation,
Tirunelveli Ltd., Tirunelveli.

+1 cc to MR.K.SATHIYA SINGH, Advocate SR.No.3956

+1 cc to M/S.JEYAPPAUL ASSOCIATES, SR.NO.4200

JUDGMENT MADE IN
W.A. [MD] .No.1279 of 2013
24.01.2017

SMA/PN/SAR-2/02.02.2017:6P/5C