

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 22273 of 2016

R. Ramesh

...Petitioner

Vs.

1. Union of India,
Rep. By The General Manager,
Southern Railway,
Park Town,
Chennai - 3.
2. The Divisional Railway Manager,
Southern Railway, Madurai Division,
Madurai - 625 016.
3. The Divisional Personnel Officer,
Southern Railway, Madurai Division,
Madurai - 625 016.
4. I. James Arputha Xavier
5. D. Vigneswari
6. S. Muthulakshmi
7. The Registrar
The Central Administrative Tribunal,
Madras Bench, Chennai

Respondents

...

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the order of the 7th respondent made in O.A. No. 138A of 2012 dated 28.07.2014 and to quash the same and to consequently direct the respondents to redraw the panel in the order of strict seniority as stipulated in para 189 of the Indian Railways Establishment Manual and to extend all other consequential service and

pecuniary benefits arising thereto.

For Petitioner : Mr. L. Chandrakumar

For Respondents :Mr. S.R. Sundaram,
for R1 to R3
No appearance for R4 to R6
R7 - Tribunal

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner made a representation seeking cancellation of the panel for the post of Train Clerk against 33-1/3% PRQ published on 30.11.2011 and to issue a fresh panel.

2. The respondents 1 to 3 proposed to conduct the selection to the post of Train Clerks. The total number of vacancies notified for the aforesaid selection vide Notification dated 1.7.2011 was three. Thirty one employees of the respondents 1 to 3 volunteered for the selection. The selection process consists of written examination and record of service. Two employees have qualified written examination by securing more than 60 marks and above. Since qualifying mark is only 50 and above, it was decided to include the employees who have scored 50 and more in the written examination. Therefore, an additional list of three employees was published on 22.11.2011. Out of the five employees, three have been selected and the panel was notified on 30.11.2011.

3. The petitioner's name was shown higher in the panel based upon his seniority though he has secured lesser mark on merit. Therefore, he made a representation stating that primacy should be given to the seniority as against merit. It was accordingly rejected by placing reliance upon the Board's letter dated 19.06.2009. Challenging the same, the petitioner approached the Tribunal which in turn rejected the contentions raised and hence the present writ petition.

4. Learned counsel appearing for the petitioner would submit that the seniority should be the criteria for promotion. This is what has been required under the Manual. Therefore, the writ petition will have to be allowed.

5. Learned counsel appearing for the respondents 1 to 3 would submit that the panel formed at the promotion itself was for a specified period and even that period is over. Even otherwise, the Board's letter dated 19.06.2009 makes the position very clear that with respect to the General Selections and when candidates are from different feeder categories, there is no question of fixing any common seniority list as held by

the High Court of Punjab and Haryana which has been approved by dismissal of the SLP by the Apex Court in SLP No. 16774 of 2008 dated 05.01.2009.

6. By way of reply, learned counsel appearing for the petitioner submits that the aforesaid decision and the Board's letter dated 19.06.2009 do not apply to the case on hand as it deals with only the units which do not follow the same seniority.

7. On a perusal of the order of the Tribunal, we do not find any error warranting interference. Admittedly, the petitioner and those selected belong to different feeder categories. It is no body's case that the common seniority list is available for different feeder categories. In fact, if one goes by the Board's letter dated 19.06.2009 even for the same feeder category there are different seniority lists which are being followed unit based. Therefore, for each and every unit of one feeder category, separate seniority is being followed. Even that has been frowned upon by the Court, including the Apex Court. Therefore, the Manual governing will have to be seen contextually to mean the seniority with the same unit and not otherwise. This would also mean that there cannot be a common seniority between different feeder categories obviously. Thus, we do not find any error in the impugned order of the Tribunal, warranting interference. Accordingly, the writ petition stands dismissed. No costs.

s/d-

Assistant Registrar (CS VIII)

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Sub-Assistant Registrar

ssm/mmi

To

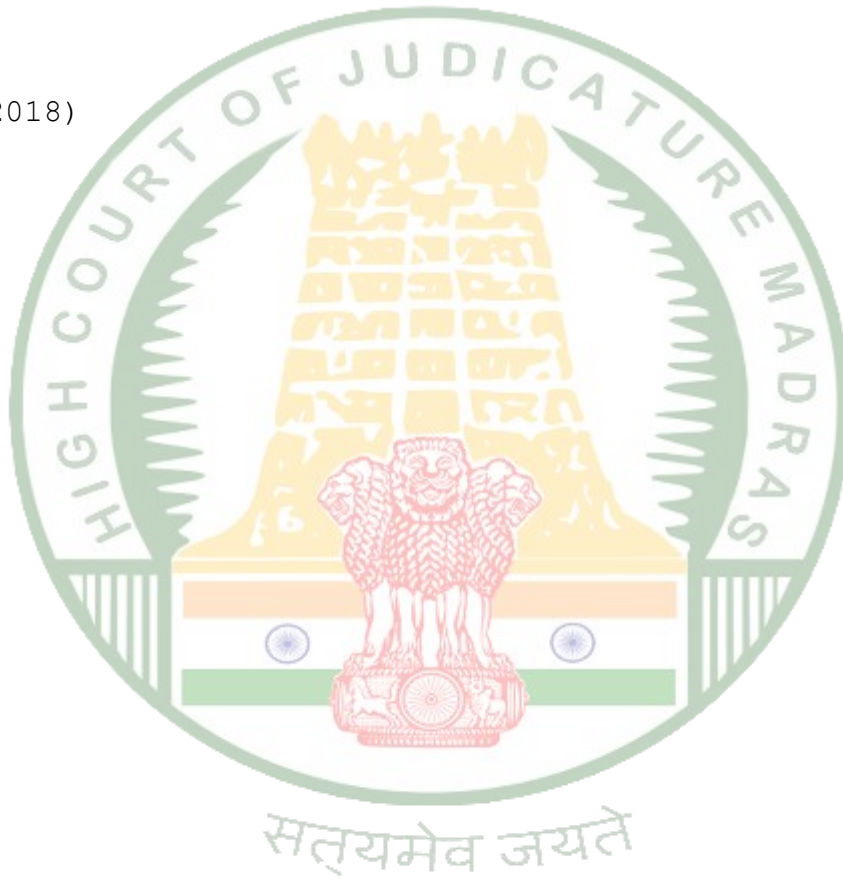
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Madras Bench, Chennai.

+1 CC to Mr.L.Chandrasekar, Advocate sr 78410.
+1 CC to Sr.S.R. Sundaram, Advocate sr 78445

W.P. No. 22273 of 2016

AK (CO)
SP (05/12/2018)



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