



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P.(MD)No.8652 of 2018

and

W.M.P.(MD)No.8116 to 8118 of 2018

K.Manikandan

: Petitioner

Vs.

1.The Tamil Nadu Civil Supplies Corporation,
Rep. by its Managing Director,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

2.The Deputy Collector / Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Ward No.10, Kuruvikaran Salai,
Aringnar Anna Nagar,
Madurai - 623 020.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.E7/8864/2013 dated 13.04.2018, on the file of the Respondent No.2 and quash the same as illegal and consequently for a direction directing Respondent Nos.1 and 2 to grant promotion to the post of Junior Assistant by way of recruitment by transfer the petitioner to Madurai District within the time stipulated by this Court.

For Petitioner : Mr.Rajasimman

for Mr.T.Lajapathi Roy

For Respondents : Mr.Raja Karthikeyan

Additional Government Pleader

O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.E7/8864/2013 dated 13.04.2018, on the file of Respondent No.2 and quash the same as illegal and consequently for a direction directing Respondent Nos.1 and 2 to grant promotion to the post of Junior Assistant by way of recruitment by transferring the petitioner to Madurai District.

2.Heard Mr.Rajasimman for Mr.T.Lajapathi Roy, learned Counsel appearing for the petitioner and Mr.Raja Karthikeyan, learned Additional Government Pleader appearing for the respondents.



3. By consent, the writ petition is taken up for final disposal at the admission stage itself.

4. The learned Counsel for the petitioner submits that the petitioner was originally appointed as Office Assistant at the respondent Corporation, subsequently, was promoted as Record Clerk at the Madurai division. While he was working as Record Clerk, he has been transferred to Theni District, at his own request, where he has been working presently.

5. While so, the second respondent has issued a list of seniority as on 01.11.2017 for the year 2017 for the post of Junior Assistant at Madurai District, where, even though some of the juniors of the petitioner who entered into service at the Madurai District had been entered in the said list, the petitioner's name has not been entered and therefore, challenging the impugned notice dated 13.04.2018, the petitioner has moved this writ petition.

6. Learned Counsel for the petitioner would submit that many number of juniors have been included in the said list, whereas the name of the petitioner has been left. Therefore, the impugned seniority list is liable to be quashed.

7. Mr. Raja Karthikeyan, learned Standing Counsel for the respondent Corporation would submit that, insofar as the petitioner and other employees working in respondent Corporation are concerned, there is a Service Rule called Employees' Service Regulations, 1989. In the said service regulations, the learned Standing Counsel would rely upon Clause 17, which reads thus:

"17. SENIORITY:

(a) The Seniority of a person in a class or category shall unless he has been reduced to a lower rank as a punishment, be determined by the rank obtained by him in the list of approved candidates drawn up by the Appointing Authority, subject to the rule of reservation of appointments wherever it applies.

The seniority shall be maintained irrespective of the actual date of joining. The unit for seniority shall be the Region (Head office to be a separate Unit) in respect of the posts for which Regional Managers/General Manager (Admn.) are appointing authorities. For all other posts, the State is the unit for seniority."

8. He would specifically rely upon Clause 17(b)(ii) of the Regulations, which reads thus:

"17(b)(ii). Where such an employee as aforesaid in para (I) for which probation has been prescribed is transferred from one region to another at his request, he shall take the last rank in the list of



probationers or approved probationers, as the case may be, in the latter region;"

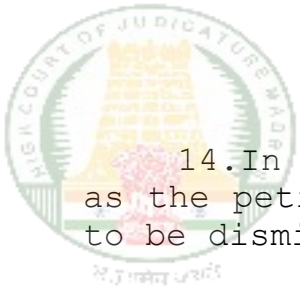
9. Since, the petitioner admittedly, at his own request got transfer from Madurai District to Theni District, knowing well that once he is transferred from one District / Region to another District / Region, he would lose his seniority from that region and he would be fit in as junior most, where he is transferred in accordance with Regulation 17 as referred to above.

10. The learned Standing Counsel would further submit that, once he got transferred from one District to another District on his own willingness, he cannot maintain his seniority in that Division and therefore, he cannot have any hue and cry over the seniority list prepared in the impugned communication, as it is meant for Madurai District and not for Theni District, where the petitioner is currently working.

11. I have considered the said submissions made by both sides.

12. As has been rightly pointed out by the learned Standing Counsel, as per Regulation 17, the seniority of the employees of the respondent Corporation will be maintained in two categories. One is State-wide seniority and another is Region/District-wide seniority. Insofar as the posts which are to be appointed by Regional Managers / General Managers (Administration), only Regional / District seniority has to be maintained. In this regard, the learned Standing Counsel would rely upon the Regulations to establish that what are all the posts which are to be appointed by Regional Manager / General Manager (Administration), according to which, Sl.No.14. Category 3, deals with Junior Assistants and the appointing authority is Regional Manager / General Manager (Administration). Admittedly, the petitioner was appointed as Office Assistant and subsequently promoted as Record Clerk and as of now, he claims promotion to the post of Junior Assistant and since the appointing authority is the Regional Manager / General Manager (Administration), certainly, all these decisions have to be made by way of promotion only on the basis of Regional / District-wide seniority and not by State-wide seniority as has been claimed by the petitioner.

13. In the case on hand, if at all the petitioner had been at Madurai District without getting transferred to Theni District, definitely the name of the petitioner would have been entered in the seniority list. However, on his own voluntary action, since the petitioner has moved from Madurai District to Theni District, by thus, giving up his seniority at Madurai Division, he has been rightly placed at Theni Division and he cannot claim promotion, as the same has been made strictly in accordance with the service regulations. Therefore, this Court is of the view that the impugned order is fully justifiable and sustainable and the petitioner cannot have any grievance over the same as he has not made out any case to that effect.



14. In that view of the matter, the present writ petition fails as the petitioner has not made out any case and hence, it is liable to be dismissed.

15. This writ petition stands dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Crl. Side)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
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2. The Deputy Collector / Regional Manager,
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- 1 CC TO Mr.T.LAJAPATHY ROY , ADVOCATE IN SR No.62407.
- + 1 CC TO Mr.RAJA.KARTHIKEYAN , ADVOCATE IN SR No.62307.
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- MR
- DS RP SAR4 10 12 2018 4P 5C

ORDER MADE IN
W.P. (MD) No.8652 of 2018

19.04.2018