



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the First day of June Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice M.V.MURALIDARAN
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CMP(MD) No.4698 of 2018
IN WA(MD) No.792 of 2018

R.MAHENDRAN,

... PETITIONER/APPELLANT

Vs

1 B.SELVA GOMATHI KUMAR,
GENERAL MANAGER, TAMIL NADU STATE TRANSPORT CORPORATION,
TIRUNELVELI LTD., TIRUNELVELI REGION,
VANNARAPETTAI, TIRUNELVELI

2 THE PRINCIPAL SECRETARY AND
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMIL NADU TRANSPORT DEPARTMENT
FORT ST.GEORGE SECRETARIAT MADRAS-09 ... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue direction directing the 2nd Respondent to promote the petitioner to the post of Managing Director, Tamil Nadu State Transport Corporation from 20.4.2016 and to pay all monetary benefits pending disposal of the writ appeal and thus render justice.

Prayer in WA(MD). 792/ 2018 :

To prefer this Memorandum of Grounds of Writ Appeal as against the order passed by this Honourable Court in WP(MD) No.15773 of 2017 dated 21.3.18

Prayer in WP(MD). 15773/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order of the respondent in G.O.Ms.No.196 Transport (D) Department dated 10.08.2017, quash the same and consequently direct the respondent herein to promote the petitioner as Managing Director in the State Transport Corporation in accordance with Resolution No.79 of the Tamil Nadu State Transport Corporation passed in its 141st meeting dated 08.12.2000 considering the recommendation for promoting the petitioner as Selection Grade Assistant Manager/Deputy Manager.



ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.SINGARA VELAN, Senior Counsel for M/S.D.SELVANAYAGAM, Advocate for the petitioner and of MR.VR.SHANMUGANATHAN, Special Government Pleader for R2 and MR.S.C.HEROLD SINGH, Advocate for R1 and the court made the following order:-

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

The Writ Appeal is preferred against the order of the learned Single Judge setting aside the G.O.Ms.No.196 dated 10.08.2017 which is passed in obidient to the order passed by the Division Bench of this Court as seen from the 1st paragraph of the said order. The said order is passed by the Government in the ailment of all the employees of the State Transport Corporation making certain groups of employees eligible for promotion to avoid stagnation of promotion for these categories 3 of the candidates aggrieved by the said Government Order had chosen to challenge the said order on the ground that it has affected their getting quicker promotional changes. While filing the writ petition, all the affected parties were not impleaded as parties in the writ petition and it is the contention of the learned Senior Counsel Mr.R.Singaravelan for Mr.D.Selvanayagam, is that in the absence of the necessary affected parties, the writ petition should not have been entertained in view of the Hon'ble Apex Court Judgment reported in A.I.R. 1985 SCC 167. He has further contended that the learned Single Judge has allowed the writ petition by quashing the G.O.Ms.No.196 which is passed in pursuance of the Division Bench order and thus these order is against the Division Bench order and he has further contended that the appellant is due to retire on 30.06.2018 and if the appellant is not consider for promotion before his retirement, he is put to irreparable loss and grave hardship atleast a month before the retirement proposals for retirement benefits would be sent and hence interim order is required for the consideration of the Appellant for promotion failing which he will be retired without any promotion which cannot be compensated later.

2.The learned counsel appearing for the party respondent Mr.Herald Singh seeks time to file counter, he also states that the learned Single Judge has rightly passed order which not warranting interference by this Hon'ble Division Bench. The learned Special Government Pleader Mr.V.R.Shanmuganathan has contended that the Government Order was passed in obedience to the Hon'ble Division Bench order and that is set aside by the learned Single Judge. But, the learned Senior Counsel again and again reitratated that the appellant's case can be consider as the special case as he is shortly retire within a month, further he has contend that there are 5 vacancies in the post of Managing Director and by granting interim direction for 1 vacancy none will be affected as the appellant will retire on 30.06.2018 and thereafter the said one vacancy also will



get restore if it is still then filed writ petition by the appellant as on interim measure. This Court consider all these submissions carefully and on consideration of all the submission ones, this Court feels that the appellant contention is just and reasonable one and hence, this Court issues the following direction:

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The 2nd respondent is directed to consider the appellant for promotion to the post of Managing Director in any one of the existing 5 vacancy in the light of G.O.Ms.No.196 dated 10.08.2017, irrespective of the order passed by the learned Single Judge by quashing the Government Order and give him promotion if he is in otherwise eligible within a week from the date of receipt of a copy of this order without prejudice to the contentions of all the parties in the Writ Appeal.

sd/-

01/06/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE PRINCIPAL SECRETARY AND
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMIL NADU TRANSPORT DEPARTMENT
FORT ST. GEORGE
SECRETARIAT MADRAS-09

+1. C.C. to M/S.D.SELVANAYAGAM Advocate SR.No.9345

ORDER IN
CMP(MD) No.4698 of 2018
IN WA(MD) No.792 of 2018
Date :01/06/2018

SMA/PN/VK/04.06.2018:3P/3c