



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

Monday, the Eighteenth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice N.KIRUBAKARAN
and
The Hon`ble Mr.Justice S.S.SUNDAR

CMP (MD) No.4963 of 2018
IN
WA (MD) No.792 of 2018

B.SELVA GOMATHI KUMAR
GENERAL MANAGER,
TAMILNADU STATE TRANSPORT
CORPORATION, TIRUNELVELI LTD,
TIRUNELVELI REGION,
VANNARAPETTAI, TIRUNELVELI

... 1ST RESPONDENT/PETITIONER

Vs

1 R.MAHENDRAN

...APPELLANT/RESPONDENT

2 THE PRINCIPAL SECRETARY &
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMILNADU
TRANSPORT (D) DEPARTMENT
FORT ST.GEORGE, CHENNAI-9

...2ND RESPONDENT/2ND RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate the interim direction granted in CMP.(MD).No.4698 of 2018 in WA.(MD).No.792 of 2018 dated 01/06/2018 and thus render justice.

Prayer in CMP.(MD).No.4698 of 2018:

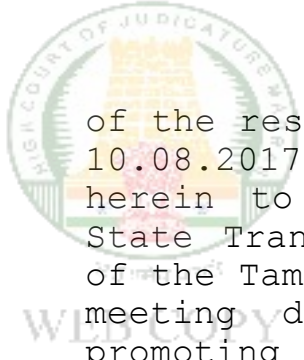
To issue direction directing the 2nd Respondent to promote the petitioner to the post of Managing Director, Tamil Nadu State Transport Corporation from 20.4.2016 and to pay all monetary benefits pending disposal of the writ appeal and thus render justice.

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 :

<https://hcservices.ecourts.gov.in/hcservices/> 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 : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.G.SANKARAN, Advocate for the petitioner and of MR.D.SELVANAYAGAM, Advocate for the 1st Respondent and MR.K.CHELLAPANDIAN, Additional Advocate General Assisted by MR.A.K.BASKARAPANDIAN, Special Government Pleader for R2, the court made the following order:-

[Order of the Court made by S.S.SUNDAR, J.]

The petitioner in C.M.P.(MD)No.4963 of 2018 is the first respondent in the appeal and the petitioner in the writ petition in W.P.(MD)No.15773 of 2017. As against the order allowing the writ petition by quashing G.O.Ms.No.196, dated 10.08.2017, the main writ appeal has been filed.

2.The appellant obtained an interim order, dated 01.06.2018 to the effect that the second respondent should consider the appellant for promotion to the post of Managing Director in any of the existing five vacancies in the light of G.O.Ms.No.196, dated 10.08.2017, irrespective of the order passed by the learned Single Judge, who has allowed the writ petition and quashed the said Government Order, dated 10.08.2017. Subsequently, the interim order was modified, by order dated 14.06.2018, taking note of the fact that the order passed by this Court earlier, dated 01.06.2018 has not been implemented by the second respondent till date. This Court directed the second respondent not to implement the order passed on 01.06.2018 in C.M.P.(MD)No.4698 of 2018 in W.A.(MD)No.792 of 2018 until further orders.

3.It is in view of the order passed by this Court, dated 14.06.2018, the appellant in W.A.(MD)No.792 of 2018 cannot be promoted, as per the Government Order, which was impugned in the writ petition. However, the second respondent has passed G.O.Ms.No.55, dated 30.06.2018 granting promotion to the appellant and several others, as per the existing rules. However, it is also stated that the promotion of the officers, as per G.O.Ms.No.55, dated 30.06.2018 would be subject to the outcome of W.A.(MD)No.792 of 2018, pending before this Court.

4.The petitioner in this vacate stay petition has submitted that there are vacancies available as on date and that the appellant was granted promotion, as per the existing rules with an observation



that such promotion will be subject to the out come of the writ appeal. It is further submitted that the petitioner in the vacate stay petition also can be promoted as per the existing rules subject to the outcome of the writ appeals, that are pending.

5. It is stated by the learned Counsel for the petitioner that the petitioner / first respondent has limited months of service to go and the benefit of the order passed by the learned Single Judge would render substantial justice to his client. It is not in dispute that there are vacancies. Hence, the request of petitioner's Counsel is to direct the second respondent to give promotion to the petitioner subject to the outcome of this writ appeal.

6. Though the learned Additional Advocate General contested the application and submitted that such promotion would be contrary to G.O.Ms.No.196, dated 10.08.2017, this Court, having regard to the nature of order passed by this Court earlier in the petition to vacate interim order and the fact that the appellant was given promotion along with several others on the basis of existing rules, is inclined to direct the second respondent in C.M.P.(MD)No.4963 of 2018 to give promotion to the petitioner as per existing rules. Since respondents in W.A.(MD)No.1672 of 2018 and W.A.(MD)No.1673 of 2018 are also the petitioners in W.P(MD)No.17321 of 2017 and W.P(MD)No.17444 of 2017, respectively and the writ petitions to quash G.O.Ms.No.196, dated 10.08.2017 were allowed by a common order, the benefit of the order shall be extended to them.

7. As a result, this petition is allowed and the second respondent is directed to consider the petitioner's promotion as per the existing rules without prejudice to the rights and contentions of the second respondent in the pending writ appeal. Appropriate orders shall be passed in the case of all the writ petitioners within a period of three weeks from the date of receipt of a copy of this order.

8. Post the main appeal after four weeks.

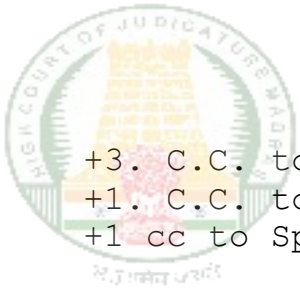
sd/-
18/03/2019

/ TRUE COPY /

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,
PORT ST. GEORGE,
SECRETARIAT, MADRAS-09.



+3. C.C. to MR.G.SANKARAN, Advocate SR.No.5099
+1. C.C. to MR.D.SELVANAYAGAM, Advocate in SR.No. 5139
+1 cc to Special Government Pleader, SR.No. 5116

WEB COPY

ORDER
IN
CMP (MD) No.4963 of 2018
IN
WA (MD) No.792 of 2018
Date :18/03/2019

JM/VR/SAR 3/25.03.2019/4P/7C