



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.19860 of 2017

and

W.M.P(MD) .No.16141 of 2017

WEB COPY

J.Chandramohan

...Petitioner

-Vs-

1.State of Tamil Nadu

Represented by its Secretary

Transport Department

Fort.St.George

Chennai 600 009

2.Tamil Nadu State Transport Corporation

(Kumbakonam) Limited

Rep.by the Managing Director

No.27, Railway Station New Road

Kumbakonam 612 001

3.The General Manager

Tamil Nadu State Transport Corporation

(Kumbakonam) Limited

Kumbakonam Region

Kumbakonam 613 001

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider and promote the petitioner to the post of Deputy Manager on par with his junior notionally and grant all consequential service benefits, including monetary benefits due to the petitioner.

For Petitioner : Mr.C.K.Chandrasekar

For Respondents :Mr.D.Sivaraman

ORDER

This Writ Petition has been filed for a direction to the respondents to consider and promote the petitioner to the post of Deputy Manager on par with his junior notionally and grant all consequential service benefits, including monetary benefits due to the petitioner.

2.The petitioner is possessing Diploma in Mechanical Engineering. He joined in Cholan Roadways as Supervisor in the

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year 1978. After 8 years of service, he was promoted as Assistant Engineer. According to the petitioner, some of his juniors, who were working in Dheeran Chinnamalai Transport Corporation, promoted as Assistant Engineer on putting 5 years of service. The respondents issued circular in the year 1986, granting permission to study B.E (Part Time) and informed that permission will be given on seniority basis. The petitioner applied for higher study. The request of the petitioner was rejected in the year 1986. He was permitted to pursue higher study only in the year 1991 and he completed B.E Degree Course. His juniors, namely, D.Selvam, N.Chidambaranathan and T.Rajmohan were permitted to study earlier to the petitioner and they acquired the said Degree earlier to the petitioner. Mr.D.Selvam was working as Deputy Manager in Kumbakonam. The petitioner gave representation dated 26.08.2015, seeking promotion on par with his junior D.Selvam and has come up with the present writ petition.

3.The respondents filed a counter affidavit. Mr.D.Sivaraman, learned counsel appearing for the respondents, contended that the petitioner has joined as Diploma Apprentice Trainee on 31.07.1978 and he was confirmed as Supervisor w.e.f. 01.06.1980. The said post was re-designated as Junior Engineer. After completion of six years, the petitioner was promoted to the post of Assistant Engineer. Apprentice period will not be counted for promotion. The junior to the petitioner sought permission to study B.E degree earlier than the petitioner and they have completed the B.E.Degree in the year 1996. As per Rule 59(b) and the Appexdix -II to the Common Service Rules, two different Seniority list of B.E.Degree holder and Diploma holder are maintained. The promotion are made in the ratio of 3:1. The junior to the petitioner completed B.E.Degree earlier than the petitioner and they became senior to the petitioner and they are in the Seniority list of B.E.Degree Holders and based on the said seniority list, his juniors were promoted earlier than the petitioner. At the time, the petitioner was in Diploma Holder seniority list. The petitioner was included in the Degree Holder Seniority list only in the year 1996. Further, he contended that the petitioner was granted permission in the year 1991, whereas the said Selvam was granted permission to pursue B.E.Degree in the year 1987. The petitioner has not challenged the rejection order of the respondents and the promotion of the petitioner in the year 2009. The said Selvam was moved in the B.E.Degree Seniority list in the year 1996 itself. Hence, he prayed for dismissal of this Writ petition.

4.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5. From the materials on record, it is seen that the



petitioner joined as Diploma Apprentice Trainee on 31.07.1978 and after completion of probation, he was confirmed in the cadre of Supervisor w.e.f. 01.06.1980 and later the said post was re-designated as Junior Engineer. The petitioner was promoted as Assistant Engineer after completion of six years. The Diploma Holder of the respondents can seek permission to acquire B.E.Degree course (Part Time)(as per circular issued by the respondents. On the application filed by the juniors of the petitioner, the respondents granted permission in the year 1986 and they acquired B.E. Degree earlier to the petitioner in the year 1990. Accordingly, they were moved in the B.E.Degree holder seniority list. D.Selvam, who was junior to the petitioner, at the time of appointment, has acquired B.E. Degree Course in June 1990 and was promoted as Assistant Manager on 11.04.2007 and subsequently, promoted as Deputy Manager on 30.06.2014. The petitioner completed B.E.Degree course only in the year 1996 and promoted as Assistant Manager on 25.06.2009 and he did not come within the zone of consideration for being promoted as Deputy Manager. The petitioner is not entitled for the relief sought for with his junior D.Selvam, as the said Selvam has acquired B.E.Degree in June 1990, much before the petitioner and he has become senior to the petitioner in the B.E. Degree Holder Seniority list.

6.For the above reason, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (w)

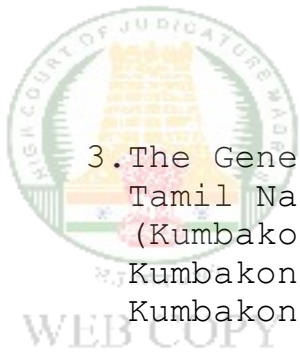
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Sub Assistant Registrar(CS)

To

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+1 CC to M/s.D.SIVARAMAN, Advocate (SR-96783[F] dated
07/11/2019)

+1 CC to M/s.A.RAHUL, Advocate (SR-96889[F] dated 08/11/2019)

msa

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