

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P No.24929 of 2019 and
W.M.P.Nos.24525 & 24526 of 2019

1.M.Vasuthevan
2.J.Kalaiselvi

... Petitioners

Vs.

1.The Principal Secretary to Government
Transport Department,
Govt of Tamil Nadu,
Fort St.George,
Chennai-600 009.

2.The Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Rep. by the Managing Director
3/137, Salamedu
Valudha Reddy Post,
Villupuram - 605 602.

3.Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Rep. by the General Manager,
Kancheepuram Regional Office,
Chennai - Bangaluru Highway
Karapettai Kancheepuram - 631 552.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Manadamus calling for the records relating to the impugned order passed in Office order No.021/32550/N1/TNSTC(V)/2014 dated 05.08.2019 on the file of the second respondent herein and quash the same in so far as it relates to "no provision to promote the petitioners to the Assistant Manager Post for the present" and direct the respondents herein to strictly adhere to the seniority list communicated in letter No.021/32550/N1/TNSTC(V)/2017 dated 15.07.2017 and subsequently finalized on 15.09.2018 for the purpose of promoting the feeder category staff to the cadre of Assistant Manager and consider the choice of the petitioners on merits.

For Petitioners: M/s.N.Ishak

For R1 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For R2 & R3 : M/s.Rajeni Ramadoss,
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned order passed by the 2nd respondent dated 05.08.2019, rejecting the claim made by the petitioners for promotion to the post of Assistant Manager and for a consequential direction to the respondents to add the names of the petitioners in the seniority list for the cadre of Assistant Manager.

2.The case of the petitioners is that the petitioners were appointed as Computer Programmer in the year 1998 in the Tamil Nadu State Transport Corporation and they were observed with the effect from 1999 in a regular time scale of pay. The further case of the petitioners is that they were promoted as Senior Programmer in the year 2005. The claim made by the petitioners is that the scale of pay that was given to the petitioners while designating them as a Senior Programmer was equally applicable to the post of Senior Superintendent also and this post is the feeder category to the post of Assistant Manager.

3.The further case of the petitioners is that the 2nd respondent by proceedings dated 03.08.2018, has re-designated the petitioners as Senior Superintendents with effect from 01.11.2005 onwards. That apart, the names of the petitioners were also added in the seniority list. However, by virtue of the impugned proceedings of the 2nd respondent, the petitioners have now been deprived from being considered for promotion to the post of Assistant Manager only on the ground that the petitioners were appointed as Senior Computer Programmers and the same is not a feeder category for promotion to the post of Assistant Manager.

4.M/s.N.Ishak, learned counsel for the petitioners submitted that the impugned order passed by the 2nd respondent suffers from non application of mind. The learned counsel submitted that the basis on which the impugned order has been passed is factually incorrect. Since by proceedings dated 03.08.2018, the petitioners have been re-designated as Senior Superintendent from 01.11.2005 onwards and therefore, this post clearly comes within the feeder category for promotion to the post of Assistant Manager. The learned counsel further submitted that

the impugned order passed by the 2nd respondent requires interference.

5.Per contra, M/s.Rajeni Ramadoss, learned Standing Counsel appearing on behalf of the respondents 2 and 3 submitted that the petitioners continued to be Senior Computer Programmers and their re-designation was done without the concurrence of the government and therefore, it cannot be taken into account for considering the promotion of the petitioners. The respondents have filed an affidavit by taking a specific stand that as per the Government letter dated 27.05.2019, the persons, who were appointed as Senior Superintendents alone are entitled to be considered for promotion to the post of Assistant Manager and such entitlement is not available to those persons, who were appointed as Senior Computer Programmers. The learned counsel submitted that this Government letter has not been put to challenge by the petitioners and this Writ Petition is liable to be dismissed on this ground.

6.This Court has carefully considered the submissions made on either side and materials available on record.

7.The relief sought for by the petitioners is that they should be added in the seniority list in the cadre of Senior Superintendents and they should be considered on merits for promotion to the post of Assistant Manager. The petitioners were appointed as Programmers in the year 2005. Subsequently, they were designated as Senior Programmers and there was a combined seniority list for Senior Programmers and Senior Superintendents. In the said seniority list, the names of the petitioners also found place. It is clear that the scale of pay of the Senior Superintendent is also equalant to that of a Senior Computer Programmer.

8.It is further admitted that a Senior Superintendent is the feeder category for promotion to the post of Assistant Manager. If the petitioners had not been re-designated as Senior Superintendent, the letter of the Government dated 27.05.2019, would have operated against the petitioners. This letter merely says that the persons, who are working as Senior Computer Programmers cannot be considered for promotion to the post of Assistant Manager, since it is not a feeder post. However, the petitioners have been re-designated as Senior Superintendent with effect from 01.11.2005 onwards by the 2nd respondent. This was done through proceedings dated 03.08.2018 and the proceedings is in effect till date. Till this proceedings is in force, the 2nd respondent cannot be allowed to disown the same and wriggle out of the consequences.

9.In view of these proceedings dated 03.08.2018 and the same being in force, the letter of the Government dated 27.05.2019, will not have any impact in the case of the petitioners.

10.In view of the above discussions, this Court has no hesitation to interfere with the impugned order passed by the 2nd respondent and accordingly, the same is quashed. There shall be a direction to the 2nd respondent to add the names of the petitioners in the seniority list in the cadre of Senior Superintendents and consider the promotion of the petitioners on merits and in accordance with the relevant rules. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order.

11.In the result, this Writ Petition is allowed, with the above direction. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vv2
To

- 1.The Principal Secretary to Government,
Transport Department,
Govt of Tamil Nadu,
Fort St.George,
Chennai-600 009.
- 2.The Managing Director,
The Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
3/137, Salamedu
Valudha Reddy Post,
Villupuram - 605 602.
- 3.The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Regional Office,
Chennai - Bangaluru Highway
Karapettai Kancheepuram - 631 552.

+2cc to M/s.N.Ishak, Advocate Sr.2056

W.P No.24929 of 2019

rr[co]
srg 13/02/2020