



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2020

CORAM:

WEB COPY

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P. (MD)No.8427 of 2019

A.Arumugam

.. Petitioner

Vs.

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

2.The Convener,
Career Planning Committee,
Tamil Nadu State Transport Corporation,
Thiruvalluvar House,
Pallavan Salai,
Chennai - 600 002.

3.The Managing Director,
Tamil Nadu State Transport Corporation
(Salem Division II) Limited,
12, Ramakrishna Road,
Salem.

4.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
New Railway Station Road,
Kumbakonam-612 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents herein to promote the petitioner as Selection Grade Assistant Manager (SGAM) with effect from 13.01.2001 based on the decision of the 21st Finance Committee meeting held on 23.02.2000 and the decision of the Board of Directors of Tamil Nadu State Transport Corporation (Salem Division II) Limited, in its 64th Board meeting held on 07.03.2001 and consequently to revise the petitioner's seniority appropriately in the post of Senior Deputy Manager and to include the name of the petitioner in the current panel of Senior Deputy Managers fit for promotion to the post of Manager.



For Petitioner : Mr.V.Meenakshi Sundaram
For Respondent No.1 : Mr.R.Sethuraman
Special Government Pleader
For Respondent Nos.2 to 4 : Mr.D.Sivaraman
Standing Counsel

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ORDER

By placing reliance in G.O.(Ms).No.761, Transport (Committee) Department, dated 30.04.1993, the petitioner claims promotion to the post of Selection Grade Assistant Manager, with effect from 13.01.2001. According to the petitioner, since the decision to promote him has already been approved by the Finance Committee as well as the Board of Directors of the Tamil Nadu State Transport Corporation, the petitioner is entitled to be promoted to the said post from 13.01.2001 onwards.

2. The learned counsel for the respondents would submit that as per G.O.(Ms).No.27, Finance (BPE) Department, dated 21.01.2002, the Government had issued a ban order for promotion and in view of the same, the decision of the Finance Department, as well as the Board of Directors, could not be implemented. He would further submit that since the ban was lifted by the Government vide Government Order in G.O.(D).No.107, Transport(D) Department, dated 05.07.2006 and had modified the service qualification from 6 years to 8 years and thereafter, the petitioner was extended with a promotion order to the post of Selection Grade Assistant Manager with effect from 13.01.2003.

2.(a) Some of the crucial dates, which would be relevant to the present case are that the petitioners herein were appointed in the corporation on 16.11.1982 and thereafter regularised from 01.12.1984 onwards.

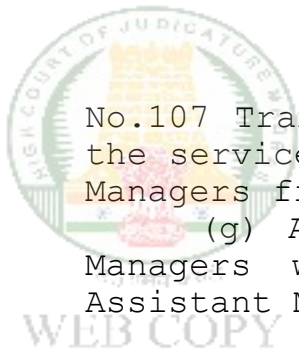
(b) The Government in G.O.(Ms).No.761, Transport (Committee) Department, dated 30.04.1993, had issued orders for time bound promotions to the post of Selection Grade Assistant Managers.

(c) In the Board meeting of the Transport Corporation held on 07.03.2001, the candidature of the petitioner along with three others was approved for promotion to the post of Selection Grade Assistant Manager.

(d) The Corporation had forwarded the resolution for approval on 06.04.2001.

(e) After eight months, the Government had issued a ban order for promotion and initial appointment, vide, G.O.(Ms).No.27 Finance (BPE) Department, dated 21.01.2002, which Government Order came to be relaxed in subsequent G.O.(Ms).No.57 Transport (C1) Department, dated 21.07.2005.

(f) After about a year of relaxation of the ban, G.O.(D).



No.107 Transport Department, dated 05.07.2006 was passed, modifying the service qualification for the post of Selection Grade Assistant Managers from 6 years to 8 years.

(g) At this juncture, the petitioner along with 17 Assistant Managers were given promotion to the post of Selection Grade Assistant Managers with effect from 13.01.2003.

3. The only ground which the Corporation seek to put against the petitioner is that in view of the ban order, the resolution of the Board could not be implemented and as and when the ban was lifted, the requirements for promotion came to be modified to 8 years and therefore, the petitioner was considered along with other Assistant Managers and thereby the promotion came to be given.

4. I am not in agreement with such a stand taken by the respondents in the counter affidavit. It is not in dispute that the petitioner would be entitled for a promotion to the post of Assistant Manager on a time bound action. When the Board of Directors had resolved to promote the petitioner, there was a gap of more than one year till the ban order for promotion came to be introduced. The resolution of the Board was not acted upon within this period and therefore, the reference to the ban as an impediment to issue promotion orders is unacceptable.

5. Likewise, when the ban order was relaxed by the Government in G.O.(Ms).No.57 Transport (C1) Department, dated 21.07.2005, the subsequent Government Order in G.O.(D)No.107 Transport Department, came to be passed only on 05.07.2006 and still the respondents could have approved the Board resolution and thereby promoted the petitioner with effect from 13.01.2001 itself.

6. While that being so, quoting the ban and the subsequent modification of the service qualification may not be adequate in order to sustain their inaction to promote the petitioner with effect from 13.01.2001 onwards.

7. It is brought to the notice of this Court that in an identical case of an employee, who is similarly placed with that of the petitioner, this Court had entertained a writ petition in W.P. (MD).No.20250/2016 and by an order, dated 21.10.2016, had directed the respondents to promote the employee therein to the post of Selection Grade Assistant Manager, by implementing the resolution of the Board of Directors of the Transport Corporation, within a stipulated time. As a matter of fact, the Corporation had also conceded to the eligibility of the employee therein for promotion from the date on which the Board had resolved to promote him.

8. In view of the above said discussions and also by taking into account of the order passed by this Court in the aforesaid decision, in the case of ***G.Selva Gomathi Kumar vs. Principal***



Secretary to Government, Transport Department and two others, this Court is of the view that the petitioner is entitled to succeed.

9. Consequently, there shall be a direction to the respondents herein to notionally promote the petitioner to the post of Selection Grade Assistant Manager, with effect from 13.01.2001 onwards, together with all the monetary and service benefits in accordance with the decisions of the 21st Finance Department Meeting held on 22.03.2020 and the subsequent resolution of the Board of Directors of Tamil Nadu State Transport Corporation (Salem Division II) Limited, in its 64th Board Meeting held on 07.03.2001 and consequently revise the petitioner's seniority appropriately in the post of Senior Deputy Manager and to include the petitioner's name in the current panel to the Senior Deputy Managers.

10. In view of the present order to revise the petitioner's seniority, the respondents shall also consider granting further promotion to the petitioner, if he is otherwise eligible, based on the revised seniority list. The respondents shall endeavour to disburse all the monetary benefits as expeditiously as possible, in any event, within a period of three months from the date of receipt of a copy of this order. This writ petition stands allowed accordingly. No Costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

PJL

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

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-6420[F] dated 14/02/2020)

+1 CC to M/s.MEENAKSHI SUNDARAM, Advocate (SR-6289[F] dated 14/02/2020)

**Order made in
W.P. (MD)No.8427 of 2019
13.02.2020**

JMN(25.02.2020) 4P : 4C

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