



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.7054 of 2016

and

W.M.P.[MD]No.6003 of 2016

WEB COPY

P.Rajesh Kumar

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Transport Department,
Fort. St. George, Chennai - 9.

2. Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Rep by its Managing Director (Administration),
Madurai Region, Madurai.

3. The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Administration Department,
Madurai Region, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned order in Administration / A2/5300/2015 on the file of the Respondent No.3 dated 07.01.2016 and quash the same as illegal and consequently for a direction, directing the Respondents to appoint the petitioner in the post of Assistant Engineer in the light of the Appointment Order issued by the Respondent No.3 dated 07.01.2016 within the time period stipulated by this Hon'ble Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent No.1 : Mr.A.K.Manikkam

Standing Counsel for Government

For Respondents 2 & 3 : Mr.D.Sivaraman

Standing Counsel for TNSTC

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

With the consent on either side, this Writ Petition is taken up for final disposal.



2. Heard Mr.T.Lajapathi Roy, learned Counsel appearing for the petitioner, Mr.A.K.Manikkam, learned Standing Counsel for Government appearing for the first respondent and Mr.D.Sivaraman, learned Standing Counsel appearing for Respondents 2 and 3.

3. This writ petition has been filed challenging the proceedings of the respondent Corporation dated 07.01.2016, by which, the petitioner though was provisionally selected to the post of Assistant Engineer (Trainee) in the respondent Corporation by office order dated 07.01.2015, was not permitted to continue in service on the ground that he possesses M.E. (Mechanical) degree with second class and the requirement is the first class degree.

4. Admittedly, the service rule which has been amended stipulates first class degree. The petitioner's case rests upon the call letter which was issued which states that if no candidates in first class degree is available under SC / ST category, candidates with second class degree can be considered. The petitioner would pitch his case on the ground of estoppel stating that he attended the interview and thereafter selected and an order of appointment was issued on 07.01.2015 and now, the said order could not have been withdrawn and could not prevent the petitioner from joining duty.

5. By efflux of time, it would be very difficult for this Court to issue any positive direction to continue the petitioner in service as admittedly, he is out of employment since 07.01.2016. Nevertheless, the petitioner would state that as per the qualification in vogue, he was fully qualified. The petitioner has not stated that there are other candidates who are available with first class and therefore, the petitioner could not be selected with second class. Therefore, we direct the petitioner to treat the impugned proceedings as a show cause notice and submit his objections within three [3] weeks from the date of receipt of a copy of this order and on receipt of which, the third respondent shall consider the same and pass a speaking order and communicate that same to the petitioner, within a period of four [4] weeks therefrom.

6. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

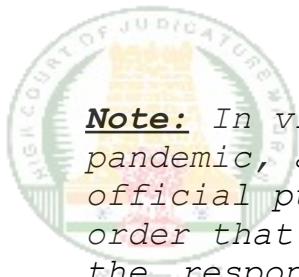
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/ /2021

Sub Assistant Registrar(CS)

MR

<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1. The Principal Secretary,
State of Tamil Nadu,
Transport Department,
Fort. St. George, Chennai - 9.
2. The Managing Director (Administration),
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Madurai Region, Madurai.
3. The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Administration Department,
Madurai Region,
Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-24706[F] dated 30/07/2021)

+1 CC to M/s.SPL GP (SR-24362[F] dated 29/07/2021)

W.P.[MD]No.7054 of 2016
28.07.2021

KS(CO)
KB(27.08.2021) 3P 6C