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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN
AND

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A. No. 584 of 2022

The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Transport (D2) Department,
Fort St. George,
Chennai - 600009.

..Appellant

Vs.

1. K. Singaram

2. V. Sankar,
Company Secretary,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
No.27, Railway Station New Road,
Kumbakonam, Thanjavur District.

..Respondents

Prayer: Writ Appeal as against the judgment dated 26.07.2021 passed in W.P. No. 6535 of 2016.

Writ Petition 6535/2016 is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, or any other appropriate Writ or order or direction in the nature of the Writ, call for the entire records of the 1st respondent's reply in letter No.16304/(D2)/2015, dated 06.02.2016 and quash the same and thereby direct the 1st respondent to include petitioner's name in the panel and promote as Manager (Accounts) for the panel year 2015-16.

For Appellant :: Mr.P. Anandakumar,
Govt. Advocate

For Respondent :: Mr.G. Sankaran for R1



J U D G M E N T

S. VAIDYANATHAN, J. AND MOHAMMED SHAFFIQ, J.

The Writ Appeal is directed against the order dated 26.07.2021 passed in W.P. No. 6535 of 2016.

2. The sum and substance of the issue on hand is whether the 1st respondent/writ petitioner is entitled to be promoted to the post of Manager (Accounts) when he was holding the post of Senior Deputy Manager (Accounts), which is a feeder category for promotion.

3. According to the learned Government Advocate appearing for the appellant, the writ petitioner was promoted to the post of Senior Deputy Manager (Accounts) on 16.10.2015 and on the crucial date namely, 01.10.2015, he was not holding the feeder category post to be considered for promotion to the post of Manager (Accounts) and hence, he is not entitled to be considered for inclusion of his name in the panel for the year 2015-2016. He would submit that on 27.10.2015, the names of candidates, who were eligible were considered for promotion and that the writ petitioner was not within the zone of consideration. Therefore, he is not entitled to any relief.

4. On the other hand, Mr.G. Sankaran, learned counsel appearing on behalf of the 1st respondent would contend that there is no crucial date as such as contended by the learned Government Advocate for the appellant and that in the light of the decision of the Division Bench of this Court dated 16.04.2015 in the case of I. Kalirajan V. The Registrar General, High Court of Madras and another passed in W.P. (MD) No. 5805 of 2015, when there is no crucial date, the date of consideration of preparation of the panel would be the guiding factor for inclusion of the names of the promotees in the panel and in the present case on hand, the date of consideration was 27.10.2015 on which date, the 1st respondent was holding the post of Senior Deputy Manager (Accounts). Even though the 1st respondent was promoted to the said post on 16.10.2015 and he had rendered only 10 days of service till 27.10.2015 in the post of Senior Deputy Manager (Accounts), in terms of the instructions issued vide G.O.(Ms). No. 21 Transport (D) Department dated 02.02.2015, names of candidates having combined service of 15 years in the cadre of Selection Grade Assistant Manager/Deputy Manager and Senior Deputy Manager (Accounts) for promotion to the post of Manager (Accounts) in State Transport Undertakings were recommended by the Career Planning Committee as there was



shortage of candidates with 7 years of qualifying service in the post of Senior Deputy Manager to be promoted to the post of Manager (Accounts). When other candidates have been considered and promoted vide G.O.(Ms) No.10 Transport (D) Department dated 08.02.2016; when the 1st respondent/writ petitioner is also eligible and had put in 15 years of combined service in the posts mentioned supra and in the absence of crucial date, the date of consideration will have to be taken into consideration for the purpose of promotion, the learned Single Judge had rightly granted the relief to the 1st respondent/writ petitioner.

5. After hearing both parties, we are of the view that there is no iota of evidence that the Common Service Rules provide for a crucial date as 01.10.2015. That apart, the 1st respondent/writ petitioner had rendered 15 years of combined service in the cadre of Selection Grade Assistant Manager/Deputy Manager and Senior Deputy Manager (Accounts). That being the case, in the light of the judgment of the Division Bench of this Court dated 16.04.2015 in I. Kalirajan V. The Registrar General, High Court of Madras and another passed in W.P. (MD) No. 5805 of 2015, we are of the view that the order of the learned single Judge in granting the relief to the 1st respondent/writ petitioner is perfectly justified and we find no reasons to interfere with the same. The writ appeal fails and the same is dismissed. No costs. The appellant is given four months time to calculate and pay the arrears to the 1st respondent/writ petitioner.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

nv
To

The Principal Secretary to Government,
Transport (D2) Department,
Fort St. George, Chennai - 600009.

+1 CC to Mr.G. Sankaran, Advocate sr 18667.

W.A. No. 584 of 2022

MG (CO)
SP(08/04/2022)