



WEB COPY



W.P.No.14735 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.14735 of 2018

G.Raghavan

.... Petitioner

-Vs-

1.The Additional Chief Secretary to Government
Transport Department, Secretariat
Secretariat, Chennai – 600 009.

2.M/s.Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Rep.by its
Managing Director, Railway Station New Road
Kumbakonam – 612 001.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider the petitioner's deemed promotion as to the post as Assistant Manager with effect from 11.04.2007 and as Deputy Manager with effect from 30.06.2015.

For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.R.Neethiperumal
Government Advocate – for R1

M/s.S.Sathyagandhi
Standing Counsel – for R2



ORDER

The prayer sought for herein is for a Writ of Mandamus directing the 1st respondent to consider the petitioner's deemed promotion as to the post as Assistant Manager with effect from 11.04.2007 and as Deputy Manager with effect from 30.06.2015.

2. The petitioner was appointed as Junior Engineer on 01.10.1983 and then promoted as Assistant Engineer on 01.10.1990 and then promoted as Senior Assistant Engineer on 01.01.1999. He had completed Bachelor of Engineering Degree on 01.11.1999 and further promoted as Selection Grade Senior Assistant Engineer on 12.10.2005, and further promoted as Assistant Manager on 30.06.2015. He retired from service on 31.05.2017 on attaining the age of superannuation after serving 36 years in the respondent Corporation.

3. In this context, it is the grievance of the petitioner that, while giving promotion to the post Assistant Manager, two juniors of the petitioner in the seniority list, though has been given such promotion in the year 2007, in respect of the petitioner it was belatedly given overlooking the seniority of the petitioner. Therefore, seeking the promotion to the post of Assistant Manager with effect from the year 2007 on par with his juniors, the petitioner has moved this writ petition.

4. Heard Mr.D.Soundar Raj, learned counsel for the petitioner,



Mr.R.Neethiperumal, learned Government Advocate for the first respondent and

Mr.S.Satya Gandhi, learned Standing Counsel for the second respondent.

WEB COPY

5. The plea raised by the petitioner has been in fact met by the respondent Corporation where they have given a reply on 31.05.2017, wherein they have stated the following.

“ ii. Two seniority lists are being maintained for the Assistant Engineers who are having qualification in a Degree in Engineering and Diploma in Engineering. As per common service rules 3:1 ratio is followed for promotion to the next cadre of Assistant Manager.

iii. You were completed part time B.E.Course in 2nd Class during November 1999. Hence, your name was shifted from Diploma holders list to Degree holders list.

iv. According to seniority in the cadre of Assistant Engineer in degree list, you were promoted as Assistant Manager with effect from 30.06.2015 and placed under probation period for 2 years which is not yet completed.

v. Thiru V.Muthukaruppiyah, had completed BE Degree on 01.04.1991, Thiru M.Subbu and Thiru.K.N.Varusai Mohamed had completed B.E.Degree on 01.11.1990. Hence, they were shifted from Diploma holders list to degree holders list. By taking into account of their seniority in “B.E” list, they got promotion as Assistant Manager with effect from 01.04.2007.



vi. *If your name remained in Diploma holders list, your seniority number is 40 and Thiru.S.Ravindran 80ES1005 who is in serial number 39 is not also getting promotion till the date of his retirement.*

vii. *It is appropriate that your name was transferred from Diploma holders list to degree holders list and hence you have been promoted to Assistant Manager cadre w.e.f.30.06.2015.*

viii. *There is no deviation in the procedures followed and there is no overlooking in giving promotion.*

ix. *Even though you entered into the service during the year 1981, you completed B.E.Degree only on November 1999. It is the only reason for the promotion given at a later date.”*

6. Despite this clear reply given by the respondents, the petitioner has chosen to file this writ petition.

7. As per the import of the instructions followed by the respondent Corporation for giving promotion to the post of Assistant Manager is concerned, there are two seniority lists. One seniority list consists of Diploma Holders and another list consists of Degree holders. The seniority maintained for the Diploma holders where the name of the petitioner was found at Sl.No.40. The grievance of the petitioner is that at Sl.Nos.44 and 45, two individuals viz., M.Subbu and K.N.Varusai Mohamed had been subsequently given promotion in the year 2007, whereas the petitioner, who stood at



Sl.No.40 in the seniority list of Diploma holders, was given promotion only in the year 2015.

WEB COPY

8. However, the fact remains that those diploma holders whose names are found in the seniority list consisting of diploma holders, the moment they complete the B.E.Degree their names would be shifted from Diploma holders list to Degree holders list. The reason being that the promotion from the two lists would be given for the post of Assistant Manager at 3:1 ratio ie., 3 persons from Degree holders list and 1 person from the Diploma holders list. Therefore, those who are in the Degree holders list would get quick promotion and those who are in the Diploma holders will get promotion later.

9. In this context, the petitioner even though senior in the Diploma list than the two individuals viz., M.Subbu and K.N.Varusai Mohamed, those two individuals completed B.E.Degree on 1.11.1990 itself and therefore their names have been shifted from Diploma holders to Degree holders list, whereas the petitioner completed the degree only in November 1999 ie., 9 years after the two individuals referred to above and accordingly his name was shifted from Diploma holders list to Degree holders list thereafter. Naturally, by gaining nine years seniority the two persons would have surpassed the petitioner in finding a place in the seniority list for Degree holders. Therefore, when the seniority list was drawn and promotion at the rate of 3:1 ratio was given, those two persons reached the zone of consideration based on their



seniority and accordingly they were given such promotion as Assistant Manager in 2007 itself, whereas the petitioner who completed the B.E.Degree only nine years after them has been shifted from the Diploma holders list to Degree holders list, as he reached the zone of consideration only in the year 2015. Accordingly, he was given promotion in the cadre of Assistant Manager with effect from 30.06.2015.

10. Therefore, the petitioner cannot make a hue and cry now that he was senior in the Diploma holders list and therefore those two individuals who were juniors to the petitioner in the Diploma holders list since have been promoted in 2007 he also ought to have been considered for promotion along with them in the year 2007, because they reached the zone of consideration in the seniority list of Degree holders as they completed the B.E.Degree in the year 1990, whereas the petitioner admittedly completed the B.E.Degree in the year 1999 only. After nine years, the petitioner cannot claim seniority in the B.E.Degree holders list. Therefore, the 3:1 ratio when it is implemented, automatically the persons who found place in the Degree holders list would get such promotion and the petitioner who joined in the Degree holders list only nine years later would never get along with the seniors, who have completed the Degree nine years back.

11. Therefore, despite the clear reply given in this regard by the respondents dated 31.05.2017, knowingly well that the claim is untenable and unjustifiable, since the petitioner has made the present prayer, this Court initially wanted to dismiss the



W.P.No.14735 of 2018

writ petition with costs. However, by making fervent request the learned counsel for the petitioner submits that the writ petitioner is a retired government servant and dismissing the case with costs may cause some prejudice to him. Recording the said submission, this writ petition is dismissed. No costs.

25.08.2022

Index : Yes/No

Internet : Yes/No

KST

To

- 1.The Additional Chief Secretary to Government
Transport Department, Secretariat
Secretariat, Chennai – 600 009.
- 2.M/s.Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Rep.by its
Managing Director, Railway Station New Road
Kumbakonam – 612 001.



WEB COPY



W.P.No.14735 of 2018

R. SURESH KUMAR, J.

KST

W.P.No. 14735 of 2018

25.08.2022