



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)Nos.8201 to 8203 of 2018

and

W.M.P. (MD)Nos.7761 to 7766 of 2018

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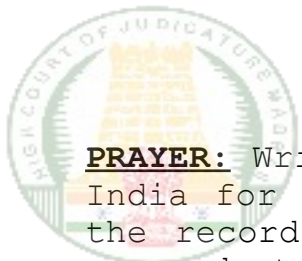
W.P. (MD)No.8201 of 2018:

C.Vijayakumar

... Petitioner

vs.

- 1.The State of Tamil Nadu,
represented by its Secretary to Government,
Transport Department,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli District.
- 3.The General Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Vannarapettai,
Tirunelveli District.
- 4.The Deputy Manager (HRD),
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli.
- 5.A.S.Perumal,
Assistant Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Nagercoil Region, Nagercoil.
- 6.S.Sivanpillai,
Assistant Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Tirunelveli Region, Tirunelveli. ... 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 relating to the impugned proceedings issued by the 2nd respondent in No.3521/HRD1/TNSTC/TNV/2015, dated 27.05.2015 and the subsequent impugned order issued by the 3rd respondent in No.6099/P7/TNSTC/TNV/2017, dated 29.07.2017 and to quash the same in so far as the respondents 5 and 6 are concerned and consequently, to direct the respondents 1 to 4 to promote the petitioner to the post of Assistant Manager in the respondent Transport Corporation with effect from 05.10.2015, with all consequential and other attendant benefits.

W.P. (MD)No.8202 of 2018:

R.Suresh Kumar

... Petitioner

vs.

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

2.The Managing Director,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli District.

3.The General Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Vannarapettai,
Tirunelveli District.

4.The Deputy Manager (HRD),
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli District.

5.A.S.Perumal,
Assistant Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Nagercoil Region, Nagercoil.

6.S.Sivanpillai,
Assistant Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Tirunelveli Region, Tirunelveli.

... 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 relating to the impugned proceedings issued by the 2nd respondent in No.3521/HRD1/TNSTC/TNV/2015, dated 27.05.2015 and the subsequent impugned order issued by the 3rd respondent in No.6098/P7/TNSTC/TNV/2017, dated 29.07.2017 and to quash the same in so far as the respondents 5 and 6 are concerned and consequently, to direct the respondents 1 to 4 to promote the petitioner to the post of Assistant Manager in the respondent Transport Corporation with effect from 01.10.2015, with all consequential and other attendant benefits.

W.P. (MD)No.8203 of 2018:

S.Suresh ... Petitioner
vs.

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

2.The Managing Director,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli District.

3.The General Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Vannarapettai,
Tirunelveli District.

4.The Deputy Manager (HRD),
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli District.

5.A.S.Perumal,
Assistant Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Nagercoil Region, Nagercoil.



6.S.Sivanpillai,
Assistant Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Tirunelveli Region, Tirunelveli.

... 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 relating to the impugned proceedings issued by the 2nd respondent in No.3521/HRD1/TNSTC/TNV/2015, dated 27.05.2015 and the subsequent impugned order issued by the 3rd respondent in No.6100/P7/TNSTC/TNV/2017, dated 29.07.2017 and to quash the same in so far as the respondents 5 and 6 are concerned and consequently, to direct the respondents 1 to 4 to promote the petitioner to the post of Assistant Manager in the respondent Transport Corporation with effect from 19.11.2015, with all consequential and other attendant benefits.

In all cases:

For Petitioner : Mr.G.Sankaran

For R1 : M/s.D.Farjana Ghoushia
Special Government Pleader

For R2 to R4 : Mr.Veerakathiravan
Additional Advocate General
assisted by
Mr.K.Sathiya Singh

For R5 and R6 : Mr.S.Ananth.C.Rajesh

COMMON ORDER

These Writ Petitions are filed for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioners in both Writ Petitions for promotion to the post of Assistant Manager in the Tamil Nadu State Transport Corporation (Tirunelveli) Limited, based on the seniority in the seniority list, dated 22.12.2015.

2. The brief facts of the case are that the petitioner in W.P. (MD)No.8201 of 2018 was qualified B.E. Degree and initially he was appointed as Assistant Engineer on 05.10.2010. The petitioner's appointment was confirmed from 05.10.2010. The contention of the petitioner is that the petitioner becomes eligible for promotion to the post of Assistant Manager on completion of 5 years of service in the cadre of Assistant Engineer on 05.10.2015, as per Rule 60 of Common Service Rules. As per the Service Rules, the method of promotion to the post of Assistant Engineer is as follows:

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



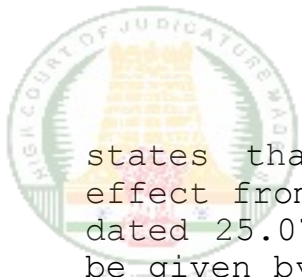
"60. Promotion to post in the Supervisor groups and Managerial cadre:

d) For appointment by promotion to a post in Managerial cadre, a person must have completed a minimum service of:

i) When the appointment is to a post in the grade of Assistant Manager, five years in the grade of Assistant Engineer/Traffic Supervisor/Senior Superintendent.

ii) When the appointment is to a post in the grade of Deputy Manager, six years in the grade in Assistant Manager."

3. According to the said Rule 60, the post of Assistant Engineer ought to be filled up by promotion from the holders of the post of Assistant Engineer who possesses degree / diploma in Engineering and who have completed 5 years of service and the vacancy ought to be filled up by following 3:1 ratio, i.e., three for Degree holders and one for Diploma holders. The petitioner is qualified for promotion on 05.10.2015. The contention of the petitioner is that the respondents Nos. 5 and 6 were qualified with Diploma and appointed as Junior Engineer on 01.11.1992 and 25.06.1986 respectively. They were promoted to the post of Assistant Engineer in the year 1999. While in service the respondents 5 and 6 also qualified B.E. Degree through part time course in June 2011 and December 2012 respectively. If the diploma holder working in the post of Assistant Engineer acquires degree qualification, while in service he shall be placed at the bottom in the seniority list of the degree holders as on date on which he acquired the degree qualification, also retaining notionally his seniority in the list of diploma holders. As per the Rules, the respondents 5 and 6 having been qualified with B.E. degree in June 2011 and December 2012 are to be placed in the bottom of seniority list of degree holders as on the date of acquiring the degree qualification. Based on the said Rules, the names of the respondents 5 and 6 have been placed below the petitioner in the seniority list of persons working as Assistant Engineer with a degree qualification. Hence, the 5th and 6th respondents are junior to the petitioner. The contention of the petitioner is that in so far as the persons from the post of Assistant Engineer with diploma holders can be considered for promotion only under 25% quota and acquiring B.E. degree qualification, while in service and will not bring them under 75% quota as per the ratio laid down by Honourable Supreme Court in **B.Thirumal Vs Anandha Sivakumar and others** reported in **2013 (8) MLJ 479 (SC)**. Even otherwise the respondents 5 to 6 can gain the benefit of seniority in the line of Assistant Engineer only from the date of acquiring B.E. degree qualification as per Service Rules. The order of promotion granted in favour of respondents 5 to 6



states that they are given promotion as Assistant Manager with effect from 25.05.2016, almost one year after the date of the order, dated 25.07.2015. On the other hand, the promotion is directed to be given by order, dated 27.05.2015, in respect of vacancies for the next year 2016 with effect from 25.05.2016. Since the petitioner was not considered, the petitioner preferred the Writ Petition in W.P.(MD)No.7102 of 2017 and this Court, vide order, dated 26.02.2017, directed the respondents to consider and pass orders in the light of Rule 60. The respondents have considered and passed orders. But the grievance of the petitioner is that his claim for promotion was negated without referring to any of the objection and without appreciating the fact. Therefore, the petitioner preferred a Contempt Petition in Cont. P. (MD) No.2253 of 2017. However, the Contempt Petition was closed, observing that the respondents have passed an order and the petitioner is at liberty to challenge the impugned order. Therefore, the petitioner challenged the impugned promotion order, dated 27.05.2015 and the subsequent order, dated 29.07.2017, in the present Writ Petition.

4. The official respondents have filed counter affidavit stating that the petitioner with B.E., degree qualification was appointed as Assistant Engineer in TNSTC, Madurai Limited, on 05.10.2009. As per Rule 60 of the Common Service Rules, promotion to any cadre of post in the Managerial Cadre or Supervisory Group shall be with reference to the availability of vacancy, based on merit, ability, regularity of attendance, based on performance and suitability and seniority. Moreover "Seniority" alone is not the only factor for consideration. As per the Rule, 3:1 ratio is followed and further the Diploma holders, who attained degree can have their seniority at the bottom level of the degree holders list at the time of attaining their degree. The 5th and 6th respondents are Diploma holders and subsequently, acquired a degree qualification in June 2011 and December 2012 respectively, both of them were in the service of the Corporation as Junior Engineer on 01.11.1992 and 25.06.1986 respectively. Subsequently, promoted to the cadre of Assistant Engineer on 11.11.1999 and 01.01.1999 respectively. Further, they were promoted as Senior Assistant Engineer from Assistant Engineer cadre on 02.02.2008 and 01.02.2004 respectively, whereas, the petitioners joined in service only on 05.10.2009. After acquiring degree, their names were brought under Degree holders list as per Rule 60. The petitioner has misspelled the ratio of 3:1 to advantage, ignoring the fact that respondents 5 and 6 have acquired B.E. degree. As per Rule 60 of Common Service Rules, they were brought in the list of graduates. The date of the order stated in the impugned order is 27.05.2015, which is a clerical error and it ought to be as 27.05.2016.

5. The fifth and sixth respondents have filed counter affidavit and has also filed written arguments. It is stated that Common



Service Rules are not followed in Transport Corporation for the recruitment process, promotion and transfer. For example, the Mechanical Engineers are working as Assistant Manager-Administration, Assistant Manager -Law, Assistant Manager-Human Resources and Assistant Manager -Accounts. This itself shows that the common Service Rules are not followed in recruitment, promotion and transfer. The respondents 5 and 6 were given promotion as Assistant Engineers with effect from 01.11.1999 and they have completed B.E. Degree in the year 2011 and 2012 respectively. While considering their promotion to the post of Assistant Manager, they should be considered as B.E. Degree holders. Since the promotion panel was drawn only in the year 2015, degree or diploma is not the criteria for promotion and the Assistant Engineer with 5 years experience is the only criteria for considering the promotion to the post of Assistant Manager. The Rule 6 (ii) & (a) of Common Service Rules is extracted under:

"6(ii) by promotion from among the holders of the posts of Assistant Engineer who possess a Degree or Diploma in Engineering and who have not less than five years experience as General Foreman/ Assistant Engineer in a Depot/ Workshop, provided that the vacancies shall be filled up in the following manner.

6(ii)(a), 7(a) and 8(a): 3/4th of the appointments from among holders of Degree in Automobile or Mechanical Engineering or Electrical Engineering or Civil Engineering."

6. Since the Common Service Rules are not followed, the respondents 5 and 6 alone are eligible for promotion to the post of Assistant Manager, as on 2015, both are having 16 years of experience in Assistant Engineer cadre. However, it requires only 5 years of experience. The petitioners themselves prayed that they wanted the promotion to the post of Assistant Manager alone and they have not distinguished their categories as technical, electrical or civil. This itself shows that there is no post available in the Transport Corporation as Assistant Manager -Technical, Assistant Manager -Electrical and Assistant Manager -Civil. The appointment order, dated 27.05.2016 says that the promotion is for the Assistant Manager in Technical category. Therefore, it is clear that the Assistant Manager post is distinguished only for 2 cadres which is Technical and Non-Technical. The petitioners having enjoyed their appointment which was not done in accordance to Common Service Rules they are estopped to challenge the appointment of the respondents 5 and 6 by citing the non-applicable Rules in Common Service Rules. Therefore, they would have morale to question the promotion given to 5th and 6th respondents and prayed to dismiss the writ petition.



7. Heard Mr.G.Sankaran, learned Counsel appearing for the petitioner, M/s.D.Farjana Ghoushia, learned Special Government Pleader appearing for first respondent, Mr.Veera Kathiravan, learned Additional Advocate General appearing for respondents 2 to 4 and Mr.S.Ananth.C.Rajesh, learned Counsel appearing for fifth and sixth respondents.

8. There is no dispute about the qualification and the date of qualification among the petitioners and 4th and 5th respondents. In order to decide this issue, the relevant portion of Rule 60 is extracted under:

"a) Promotions to any category of post in the Managerial cadre or a supervisory group shall be with reference to availability of vacancies, and based on merit, ability and regularity of attendance, past performance and general suitability.

Note-1: Seniority will also be one of the facts to be taken into consideration; but not the only factor. There shall be no time based longevity pay scheme review in any category of post in the Supervisory Groups or in the Managerial cadre.

...

d) For appointment by promotion to a post in the Managerial cadre, a person must have completed a minimum service of:

i) When the appointment is to a post in the grade of Assistant Manager, five years in the grade of Assistant Engineer/ Traffic Supervisor/ Senior Superintendent;

...

Note: The words "first appointed" used in the above provision denote first appointment in the Department or Organisation in which the individual was employed before his permanent absorption in the corporation.

e) Where the rules specify ratio for appointment promotion from among Degrees holders and Diploma holders to a post in the Supervisory Group Managerial Cadre, if a Diploma holder acquires graduate qualification while in service he shall take his place at the bottom of the seniority list of degree holders as on date in which he acquired the degree qualification also retaining notionally his seniority in the list of Diploma holders. He will get his promotion in the normal course when his turn comes in the order of seniority either as Diploma holder or as Degree holder, whichever happens earlier.

To become eligible for appointment by promotion from a lower post to the next higher post (one grade to another) within a Supervisory Group, a person must have completed a minimum service of five years in the lower post.

...



6. ASSISTANT MANAGER (Technical/ Materials/ P&D/Works.):

i) By transfer from among the holders of the posts of Assistant Manager who are technically qualified.

OR

ii) By promotion from among the holders of the posts of Assistant Engineer who possess a Degree or Diploma in Engineering and who have not less than five years experience as General Foreman/ Assistant Engineer in a Depot/ Workshop, provided that the vacancies shall be filled up in the following manner.

a) 3/4th of the appointments from among the holders of Degree in Automobile or Mechanical Engineering.

b) 1/4th of the appointment from among holders of Diploma in Automobile or Mechanical Engineering. Provided that such promotions shall not be detrimental to the Seniors who possess higher qualification namely Degree in Automobile or Mechanical Engineering and their overall seniority in the respective categories shall not be affected."

9. On perusing this Rule 60, it would be evident that the ratio is fixed as 3:1, i.e. three for the degree holders and one for the diploma holders. If any person who had completed diploma, thereafter, acquired the additional qualification of B.E., then, the Rule specifically states that the person would be placed as junior most in the list of degree holders. However, the list to the diploma holders will be fixed notionally as in annexure under Clause 6. It has been specifically stated that the promotion from among the holders of the post from Assistant Engineer who possess a degree or diploma in Engineering and who have not less than 5 years. Therefore two qualifications are essential, one should possess degree or diploma and should possess 5 years experience. Under Sub Clause A and B, it has been specifically stated that "degree holders in automobile or mechanical engineering" or "diploma in automobile or mechanical engineering". It is also specifically stated "under proviso that such permissions shall not be detrimental to the seniors who possess higher qualification namely, degree in automobile or mechanical engineering" and it also says that "the over all seniority, in the respect of categories shall not be affected".

10. The contention of the petitioners are that the petitioners are direct recruits to the post of Assistant Engineer with B.E. Degree qualification on 05.10.2009, 09.11.2009 and 16.09.2009 respectively. After completion of one year training, they were absorbed in a regular post as Assistant Engineers (degree) on 05.10.2010, 19.11.2010 and 01.10.2010 respectively. As per Common Service Rules, Rule 60 (d), the petitioners are eligible for promotion to the post of Assistant Engineer on completion of 5



years. Hence, the petitioners are eligible from 05.10.2015, 19.11.2015 and 01.10.2015 respectively. The 5th and 6th respondents, namely A.S.Perumal and S.Sivanpillai were initially appointed as Junior Engineers with Diploma qualification on 01.11.1992 and 25.06.1986 respectively and they were promoted as Assistant Engineer diploma on 01.11.1999 and 01.04.1999. The post of Assistant Engineer comprising of Assistant Engineer degree and Assistant Engineer diploma are the feeder category to the post of Assistant Manager coming under the managerial category as per Rule 59 (b)(6) of the Common Service Rules, the post of Assistant Manager (Technical) ought to be filled up by promotion from among the holders of Assistant Engineer following the ratio of 3:1 between Assistant Engineer (Degree) in automobile or mechanical engineer and Assistant Engineer (Diploma) in automobile and Mechanical Engineer. Hence, two separate seniority is being maintained in A.E. (Degree) and A.E. (Diploma). The Rule 60 (e) of the Common Service Rule prescribes that if a diploma holder acquires graduation qualification while in service, he shall take his place at the bottom of the seniority list of the degree holders as on the date for which he acquired degree qualification also retained notionally his seniority in the list of diploma holders, i.e., he will get his promotion in a normal course when his turn comes in the order of seniority either as a diploma holder or as a degree holder which ever happens earlier. The 5th and 6th respondents were working as Assistant Engineer Diploma from the date of promotion. Subsequently, they acquired B.E. Degree qualification in the year June 2011 and December 2012 respectively and they became eligible to be included in the seniority list meant for Assistant Engineer Degree by placing them in the bottom of the seniority list of Assistant Engineer as on the date of acquiring qualification, i.e., June 2011 and December 2012 respectively. Apart from maintaining seniority in Assistant Engineer Diploma, the 5th and 6th respondents were included in Assistant Engineer Diploma seniority list as well as Assistant Engineer Degree seniority list. In Assistant Engineer Degree seniority list, the respondents 5 and 6 were placed at the bottom in the list by taking the date of acquiring B.E. Degree qualification. Admittedly, the petitioners were placed above in A.E. Degree seniority and the respondents 5 and 6 are placed below in A.E. degree seniority list in accordance to the Rule 60 (e). However, suddenly, the 5th and 6th respondents have been included in Serial No.1 and 2 of Assistant Engineer Degree seniority list prepared on 15.12.2015 and were given promotion to the post of Assistant Manager (Technical) on 25.5.2016 overlooking the seniority of the petitioners in the post of Assistant Engineer degree, in violation of Common Service Rules. The revised seniority is in violation of Service Rules and also without issuing notice to the petitioners, thereby, violating the principles of natural justice. Against the revision of the seniority, the petitioners submitted objections and also filed Writ Petitions in W.P.(MD) Nos.7102, 7103



and 7104 of 2017, wherein this Court directed the respondents to consider the objections and pass orders in accordance with law. The third respondent issued an order, dated 29.07.2017, without referring to the actual grievance of the petitioner and without referring to Rule 60 stating that the petitioners are eligible for promotion to the post of Assistant Manager on 05.10.2015, 01.10.2015 and 09.11.2015 respectively and they will be considered for promotion as and when the vacancies arise in near future. But the actual grievance of the petitioners is that the vacancy arose to the post of Assistant Manager Mechanical on 31.12.2015. But, overlooking the petitioners' seniority, the official respondents have given promotion to the respondents 5 and 6 on 27.05.2016. According to the petitioners, the respondents 5 and 6 are juniors to the petitioners and did not reach the zone of consideration. Hence, the petitioners preferred Contempt Petitions and this Court directed the petitioners to adjudicate the order passed by the respondents, dated 29.01.2017. Hence, the petitioners have preferred these Writ Petitions.

11.The official respondents have filed counter affidavit stating that the 5th and 6th respondents were appointed with diploma qualification in the year 1992 and 1986 and they were promoted as Assistant Engineer diploma in the year 1999, whereas, the petitioners were appointed as direct recruits in the year 2009 and therefore, the respondents 5 and 6 ought to be considered for promotion to the post of Assistant Manager. The contention of the respondents is that the petitioners completed B.E. Degree in the year 2009 and was confirmed in the year 2010 in Madurai Division. Subsequently, the petitioners joined as Assistant Engineer on his own wish and placed as junior most in the Assistant Engineer cadre. As per Rule 60 of the Common Service Rules, promotion to any category of post in managerial cadre or supervisory cadre shall be with reference to availability of vacancies and based on merit and ability, regularity of attendance, based on performance, general suitability and seniority. Seniority alone is not the only factor for consideration. The 5th and 6th respondents are diploma holders and subsequently, acquired degree qualification in June 2011 and December 2012 respectively. Both the respondents entered the service in the year 1992 and 1986 respectively and subsequently, promoted as Assistant Engineer in the year 1999. Further, they were elevated as Senior Assistant Engineer, whereas the petitioners joined in service only in the year 2009 the respondents 5 and 6 acquired degree qualification in 2011 and 2012 and they are eligible to get promotion as Assistant Manager at once, as they have already elevated from Assistant Engineer cadre to Senior Assistant Engineer. The official respondents vehemently denied that the contention of the petitioners wherein the petitioners have stated that the respondents 5 and 6 are not eligible for promotion under 75% quota meant for the degree holders. But, the Rules clearly states that



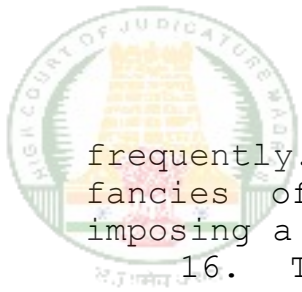
the ratio is 3:1 and the petitioners misspelled and misinterpreted the Rule 60, the promotion can be granted as and when the vacancy arises.

12. On perusal of records and taking all these factors into consideration, it is seen that admittedly, the petitioners have completed degree qualification in the year 2009 and the 5th and 6th respondents have completed degree qualification in the year 2011 and 2012. If that is so, the names of respondents 5 and 6 ought to be placed below the petitioners as they are juniors in acquiring degree qualifications. But the official respondents have given seniority by fixing the seniority on the date of promotion of the 5th and 6th respondents, i.e., 1999. In short, they have given retrospective effect to the degree qualification but it has to be, dated back to the date of promotion of Assistant Engineer. This action of the official respondent is totally against Rule 60.

13. The contention of the respondents 5 and 6 that they are senior by taking into account the date of joining. Moreover, the post of Assistant Manager states only Technical. If it is technical, any person can be appointed and it need not be only the degree holder alone. But, the said interpretation is absolutely wrong, since under Common Service Rules in Appendix 2 in Serial No.6 below Sub Clause 2, it has been stated that under A and B, "Degree holder in automobile and mechanical Engineer" and "Diploma holder in automobile and mechanical Engineer" may be considered in the post of Assistant Manager Technical / Materials / TMB / Works. Therefore, the interpretation of the 5th and 6th respondents is also absolutely wrong. It is submitted by the petitioner that the 6th respondent namely, Sivan Pillai has acquired degree qualification in Civil Engineering and therefore the said Sivan Pillai is not at all qualified for the Assistant Manager Technical, where, it has been clearly prescribed degree qualification in Automobile and Mechanical Engineering. Therefore, this Court is of the considered opinion that the said Sivan Pillai cannot be considered for the post of Assistant Manager Technical.

14. As far as the fifth respondent A.S.Perumal is concerned, he is eligible to be considered for Assistant Manager Technical from the date of acquiring B.E. Degree, i.e., from June 2011 onwards. Admittedly, the petitioners have completed degree qualification in the year 2009 itself. Therefore, they are senior most than the 5th and 6th respondents. Hence, the promotion granted through impugned order is absolutely against the Rule 60 of the Common Service Rules.

15. This Court has come across one another Writ Petition in W.P.(MD)No.7011 of 2013. A similar plea was taken by the petitioner therein, that the respondents TNSTC is not following Common Service Rules. The respondents are violating the Common Cadre Service Rules



frequently. It is resulting in granting promotion at the whims and fancies of the official respondents. Therefore, this Court is imposing a cost of Rs.10,000/- payable to ____.

16. The impugned order is set aside and the official respondents are directed to grant promotion to the petitioners by taking the seniority in the year 2015 with the consequential monetary benefits to the petitioners. Since the 5th and 6th respondents have already served in the post and received the monetary benefits, the official respondents are directed to revert the respondents 5 and 6. Since the respondents 5 and 6 have served in the post and has received monetary benefits applicable to the said post, it can be considered as temporary post, which is "incharge post" and the official respondents are refrained from recovering the monetary benefits availed by the fifth and sixth respondents. This relief is granted since the respondents deliberately have not followed Rule 60 of Common Cadre Service Rules.

17. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Tmg

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.

To

1. The Secretary to Government,
Transport Department,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Managing Director,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli District.



3.The General Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Vannarapettai,
Tirunelveli District.

4.The Deputy Manager (HRD),
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Kattabomman Nagar,
Tirunelveli.

+3 CC to M/s.K.SATHIYA SINGH, Advocate (SR-14577[F] ,SR-14578[F]&
SR-14579[F] dated 25/03/2022)

W.P. (MD)Nos.8201 to 8203 of 2018
23.03.2022

MGJ(29.06.2022) 14P 8C