



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.03.2022
CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**
W.P. (MD)Nos.16369 and 16372 of 2018

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W.P. (MD)No.16369 of 2018:

A.Munusamy

... Petitioner

vs.

- 1.The Government of Tamil Nadu,
represented by its Secretary,
Transport Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Kattabomman Nagar,
Tirunelveli.
- 3.The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Tirunelveli Division,
Vannarapettai, Tirunelveli.
- 4.The Deputy Manager (HRD),
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Kattabomman Nagar, Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to consider the petitioner 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.

W.P. (MD)No.16372 of 2018:

A.Gopalakrishnan

... Petitioner

vs.

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



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

3.The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Tirunelveli Division,
Vannarapettai, Tirunelveli.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to consider the petitioner 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.

In both cases:

For Petitioner : Mr.S.S.Thesigan

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

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 petitioner in W.P.(MD)No.16372 of 2018 was appointed as Junior Engineer Trainee in the year 05.08.1994 based on his Diploma Certificate. Subsequently, on 05.08.2001, promoted as Assistant Engineer. The petitioner has completed B.E. Degree in April 2015 and M.B.A. Degree in the year 2017. The petitioner was designated as



Senior Assistant Engineer on 05.08.2007 and working as Branch manager (in-charge) since 2006 and at present working as Branch Manager (in-charge) of Tenkasi Branch of TNSTC, Tirunelveli Division. The petitioner is working as Branch Manager (in-charge) for the past 12 years without promotion as Assistant Manager, despite the fact that he has become eligible to the post on completion of 5 years in the post of Assistant Engineer according to Rule 60 of the Common Service Rules.

3. The petitioner in W.P.(MD)No.16369 of 2018 was appointed as Junior Engineer in the year 01.01.1998 based on his Diploma Certificate. Subsequently, on 01.01.2005, promoted as Assistant Engineer. The petitioner has completed B.E. degree in 2014. The petitioner was designated as Assistant Engineer on 01.01.2007 and working as Assistant Engineer since 2005. The petitioner is working as Assistant Engineer for the past 12 years without promotion as Assistant Manager, despite the fact that he has become eligible to the post on completion of 5 years in the post of Assistant Engineer according to Rule 60 of the Common Service Rules.

4. The contention of the petitioners is that the respondents prepared the seniority list, dated 22.12.2015 and in the said list the serial numbers 1 to 6 were promoted. The petitioner in W.P.(MD) No.16372 of 2018 was placed in the 5th place and the petitioner in W.P.(MD)No.16369 of 2018 was placed in the 4th place. They should have been promoted in the existing vacancies. However, one A.S.Perumal and S.Sivanpillai were promoted as Assistant Manager. According to the petitioners in both Writ Petitions, granting promotion to one set of people and not considering the petitioners, especially, when the petitioners were placed at 4th and 5th place are highly arbitrary and against Article 14 of the Constitution of India.

5. A similar issue was raised in W.P.(MD) No. 8201 of 2018, W.P.(MD) No. 8202 of 2018 and W.P.(MD) No. 8203 of 2018 batch, wherein the promotion granted to Diploma holders by fixing seniority from their initial date of appointment under the quota of Degree holders through impugned order dated 27.05.2015 and consequently order dated 29.07.2017 was challenged. This Court has held that their seniority should be fixed from the date of passing B.E. Degree and not from the date of possessing Diploma Certificate. Therefore, this Court without expressing any opinion is directing the respondents to consider the claim of the petitioner in accordance to Rule 60 of the Common Service Rules and in the light of the judgment rendered in W.P.(MD) No. 8201 of 2018, W.P.(MD) No. 8202 of 2018 and W.P.(MD) No. 8203 of 2018 batch and pass orders within a period of four weeks from the date of receipt of a copy of this order.



6. With the above direction, the Writ Petitions are disposed of.
No costs.

Sd/-

Assistant Registrar (CS II)

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// True Copy //

/06/2022

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

+2 CC to M/s.K.SATHIYA SINGH, Advocate (SR-14575[F] & SR-14576[F]
dated 25/03/2022)

W.P. (MD) Nos. 16369 and 16372 of 2018
23.03.2022

MGJ(29.06.2022) 4P 7C

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