



WP.No.16048/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.16048/2016

A.Thangaraj

... Petitioner

Versus

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

2.M/s.State Express Transport Corporation Ltd
rep.by its Managing Director,
Pallavan Salai, Chennai 600 002.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to promote the petitioner as Assistant Manager [Non Technical Cadre] from in terms of G.O.Ms.No.138, Transport [C] Department, dated 23.11.2015.

For Petitioner	:	Mr.D.Soundarraaj
For R1	:	Mr.R.Needhi Perumal, GA
For R2	:	Mr.S.Siva Subramani



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ORDER

- (1) The writ petition has been filed in the nature of a mandamus seeking a direction to the respondents, particularly the 2nd respondent, State Express Transport Corporation Limited, represented by its Managing Director, at Chennai, to promote the petitioner as Assistant Manager [Non Technical Cadre] in terms of G.O.Ms.No.138, Transport [C] Department, dated 23.11.2015.
- (2) The petitioner has not questioned or not sought that the other individual who has been promoted and which is the reason for the grievance of the petitioner namely Tmt.W.Usha Rani, promotion should be interfered with by this Court. As on date, both the petitioner and Tmt.W.Usha Rani have retired on attaining the age of superannuation. Therefore, any order passed would only be on paper and for notional promotion alone. The promotion already granted to Tmt.W.Usha Rani would not be affected by any order passed by this Court.



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- (3) In the affidavit filed in support of the writ petition, it had been stated that the petitioner had been appointed as Junior Assistant on 22.08.1980. It had also been stated that Tmt.W.Usha Rani, was appointed as Junior Assistant on 22.01.1981. It is therefore clear that the petitioner is senior at least so far as Entry Level Post is concerned. Thereafter, the petitioner had been promoted as Superintendent by an order dated 05.05.2007, as Senior Superintendent by an order dated 25.05.2012 and also worked as Divisional Internal Auditor and also Enquiry Officer in the 2nd respondent. He also possessed necessary educational qualifications and also passed Post Graduate Diploma in Road Transport Management while in service during January 1984. He also passed the Executive Examinations conducted by the Institute of Road Transport in April 2013 which is the requisite qualification to be considered for promotion to the post of Assistant Manager [Non Technical].
- (4) The petitioner had expressed his intention to be considered for such promotion as Assistant Manager [Non Technical]. His name was also recommended by the 2nd respondent, to the Board of Directors.



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However, in their 182nd Meeting which was held on 29.06.2015, the Board of Directors declined to accept such recommendation and did not grant promotion to the petitioner holding that the petitioner had not completed 5 years of service in the post of Senior Superintendent as per the Common Service Rule 60[d][1].

- (5) In the written instructions given by the learned Standing counsel appearing for the 2nd respondent, it had been stated that at the time of promotion, there were four vacancies and out of the four vacancies, one was for Assistant Manager [Non Technical] and the other was for Assistant Manager [Legal] and two posts were for Assistant Managers [Accounts]. Out of the four posts, one is to be filled by promotion and the three are to be filled through the Tamil Nadu Public Service Commission. This would effectively mean that only one post of Assistant Manager [Non Technical] could be filled by the 2nd respondent through promotion. It had also been stated that G.O.Ms.No.138, Transport [C] Department, dated 23.11.2015 had been issued by the Government to relax the service qualification for the post of Assistant Manager from 10 years to 6 years. Though it



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had been passed only in the year 2015, it had been placed before the Board Meeting held on 18.08.2017, the 191st Meeting. The Common Service Rules were sought to be amended only subsequently. It had also been stated that therefore Tmt.W.Usha Rani was considered for promotion with effect from 30.09.2016 as according to the respondents, she had completed the qualifying service of 10 years in supervisory cadre as per Common Service Rules while the petitioner herein had not so qualified for 10 years. I am not able to understand the rationale behind such a decision taken by the 2nd respondent. G.O.Ms.No.138, Transport [C] Department, dated 23.11.2015 had been issued for the promotion to the Administrative Supervisory staff and for that purpose, specifically issued to relax the service condition for promotion to the post of Assistant Manager [Non Technical] from the post of Senior Superintendent. It had been passed after examining various letters from the Managing Directors of the State Transport Corporations at various zones, including Tirunelveli, Salem, Chennai, Kumbakonam, Coimbatore, Villupuram and Madurai.

(6) A reading of the Government Order reveals that there should be



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relaxation of the period of 10 years for the promotion to the post of Assistant Manager [Non Technical] and therefore, after careful consideration, the Government had accepted the request of the State General Secretary of the Tamil Nadu State Transport Corporations Administrative Supervisors Federation and also the recommendations of the Managing Directors of all the State Transport Undertakings and had relaxed the service qualification from 10 years to 6 years. It had been stated that the Managing Directors of all the State Transport Corporation Undertakings should place this particular Government Order before the respective Boards for implementation and must follow the instructions issued.

- (7) The 2nd respondent herein appears to have placed the Government Order for consideration only in the year 2017 before the 191st Board Meeting which was held on 18.08.2017. No reasons had been stated as to why they did not place it earlier. There is no reason stated as to why they had not considered the promotion of the petitioner herein though the Government Order had been issued and it is binding on the State Transport Organizations. The request of the petitioner had



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been rejected only owing to some prejudice against the petitioner herein. The Court has to unfortunately come to the said conclusion.

As stated above, since Tmt.W.Usha Rani had retired, it would be futile to now re-examine her promotion.

- (8) However, a mandamus is issued to the respondents to notionally promote the petitioner herein from the date of his eligibility as Assistant Manager [Non Technical] and grant necessary monetary relief so far as pension aspect is concerned. Back wages for that particular post need not be granted. But that upgraded post may be considered for pensionary benefits. Necessary proceedings to be issued within a period of twelve weeks from the date of receipt of a copy of this order.

- (9) The writ petition stands **allowed**. No costs.

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AP

Internet : Yes



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To
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Transport Department, Secretariat,
Chennai 600 009.

- 2.The Managing Director,
M/s.State Express Transport Corporation Ltd
Pallavan Salai, Chennai 600 002.



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C.V.KARTHIKEYAN, J.,

AP

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