



WEB COPY



W.A.No.4005 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE G.ARUL MURUGAN

W.A.No.4005 of 2019

L.Sakthivel Murugan

... Appellant

Vs.

1.The Government of Tamil Nadu,
rep. By its Secretary,
Transport Department,
Fort St. George,
Chennai – 600 009.

2.The Managing Director,
Tamil Nadu, State Transport Corporation,
(Coimbatore Limited),
No.37, Mettupalayam Road,
Coimbatore 641 043.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying to set aside the order dated 21.09.2011 made in W.P.No.18745 of 2008.

For Appellant : Mr.K.Raja

For Respondents : Mr.A.Sundharavadhanan
Standing Counsel for R1

: Mr.R.Kumaravel
Additional Government Pleader for R2



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JUDGMENT

WEB COPY (Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This appeal has been directed against the order passed by the Writ Court dated 21.09.2011 made in W.P.No.18745 of 2008.

2. The appellant was working under various categories at the 2nd respondent Transport Corporation and ultimately he had been promoted as Assistant Manager with effect from 19.04.1992 in that capacity he had been working for several years.

3. Insofar as common cadre rules are concerned, though it governs various promotions, insofar as the post of Senior Deputy Manager for which the feeder category is Deputy Manager the common cadre rule does not speak about how such promotion should be given.

4. However, the Government i.e., Transport Department in letter dated 09.11.1987 has prescribed that for the post of Senior Deputy Manager promotion can be given from Deputy Manager for those who have completed 4 years of service in the feeder category i.e., Deputy Manager.



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5. In this context, it is the case of the appellant who stood as the writ petitioner before the Writ Court that, since he had been given promotion as Assistant Manager with effect from 19.04.1992 and in that capacity if he has completed 6 years of service he would automatically become eligible to be considered for the post of promotion to Deputy Manager, therefore atleast in the year 1998 he should have been given promotion as Deputy Manager, after 4 years he would further eligible to be considered for the post of Senior Deputy Manager, therefore atleast in the year 2002 or immediately thereafter promotion should have been given to the appellant which the respondents failed to consider and give him the promotion, therefore seeking such promotion he had already approached the Writ Court seeking for writ of mandamus. The said writ petition having been considered was rejected by the Writ Court through the impugned order. Aggrieved over the same, the present appeal has been directed.

6. Heard Mr.K.Raja, learned counsel appearing for the appellant, Mr.A.Sundharavadhanan, learned Standing Counsel appearing for the 1st respondent and Mr.R.Kumaravel, learned Additional Government Pleader appearing for the 2nd respondent.



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7. Since there has been no cadre rule governing the promotion for the post of Senior Deputy Manager, Government issued letter dated 09.11.1987 where certain mandatory guidelines have been prescribed under which the person who was holding the post of Deputy Manager for a period of 4 years would be eligible to be considered for the post of Senior Deputy Manager.

8. Here in the case in hand, the appellant though had been given promotion as Assistant Manager on 19.04.1992 in that capacity he had been working for long years.

9. He had only been considered for re-designation of the post of Assistant Manager into Deputy Manager only with effect from 22.12.2006, this become evident by the proceedings issued by the 2nd respondent dated 30.12.2006 which reads thus:

“In pursuance of the Board Resolution cited, Thiru L.SAKTHIVEL MURUGAN PR No.J00116, Selection Grade Assistant Manager is posted as Deputy Manger with effect from 22.12.2006 without change in emoluments.”



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10. Therefore for all practical purposes, he shall be considered to be a Deputy Manager only with effect from 22.12.2006.

11. If that being so, as per the mandatory guidelines issued by the Government through letter dated 09.11.1987 he should have completed 4 years service as Deputy Manager with effect from 22.12.2006 whereas he had retired on superannuation on 31.07.2008 itself i.e., well before the completion of 4 years period, therefore the question of considering him for the promotion to the post of Senior Deputy Manager does not arise.

12. Apart from this reason, the learned Judge also has found some more reasons on the basis of the cadre rules where prescription has been made that those who have qualification of degree alone would be considered for promotion to the post of Senior Deputy Manager.

13. If not for the said reason stated by the learned Judge, atleast for the present reason, which we have discussed herein above, the appellant is not entitled to seek for any promotion to the post of Senior Deputy Manager since he become qualified to hold the post of Deputy Manager by way of re-designation only with effect from 22.12.2006 since then he



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may be considered for promotion to the post of Senior Deputy Manager on completion of his 4 years service in that capacity as Deputy Manager.

14. However, before completing 4 years since he retired on superannuation on 31.07.2008 the chance of considering his candidature did not arise at all, therefore rightly the respondent had denied the promotion to the post of Senior Deputy Manager to the appellant which in fact has been dealt with of course on a different footing by the learned Judge through the impugned order. Therefore the order impugned is to be sustained as the appellant has not made out any case to seek for such a notional promotion to the post of Senior Deputy Manager since he has not qualified to hold such a post in view of his earlier superannuation on 31.07.2008 before completing the 4 years period in the feeder category in Deputy Manager. For all these reasons, this writ appeal has to fail, accordingly it is dismissed. No costs.

[R.S.K., J.]

[G.A.M., J.]

10.11.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

Sgl



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To
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