



W.P.No.29337 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.29337 of 2018

and

W.M.P.No.34284 of 2018

V.Kishore Kumar

... Petitioner

Vs.

1.The Managing Director,
Puducherry Road Transport Corporation Limited,
Puducherry.

2.The Chief Secretary,
Government of Puducherry,
Puducherry.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondent to maintain the status quo order passed as per the 128th Board Resolution held on 15.12.2015.



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For Petitioner : Mr.P.R.Balasubramanian

For Respondents : Mr.A.R.Nixon for R1
No appearance for R2

ORDER

This Writ Petition has been filed to forbear the respondent to maintain the status quo order passed as per the 128th Board Resolution held on 15.12.2015.

2.The petitioner was directly recruited as General Manager -cum- Company Secretary by the Puducherry Tourism and Development Corporation Limited on 20.01.1997 by proceeding No.357/PT & TDC/A1/96/013, dated 06.01.1997 and proceeding No.024/PT & TDC/Admin/97/132, dated 18.02.1997.



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3.The 2nd respondent bifurcated the erstwhile Puducherry Tourism and Transport Development Corporation Limited in 2005 by forming the tourism as a separate corporation and Puducherry Road Transport Corporation. The petitioner was retained by the 1st respondent and continued act as General Manager -cum- Company Secretary in the said Corporation. The 1st respondent in the 118th Board Meeting was held on 31.12.2012 and the post of General Manager -cum- Company Secretary was bifurcated as General Manager as a separate post and the said post was classified as Group-A and the Company Secretary as a separate post and the said post was classified as Group-B on 29.01.2013 as per the Board resolution and the 1st respondent has framed the separate recruitment rules for both the posts and it was approved in the 119th Board Meeting held on 28.03.2013. The said rule was published in the office Gazette of Puducherry without approval of the Competent Authority on 03.06.2014. The



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Board has decided to restore the status quo of the General Manager -cum- Company Secretary as a single post and it was prior to the decision taken in the 118th Board Meeting and a circular resolution was moved on 31.10.2015 and the same was ratified in the 128th Board Meeting held on 15.12.2015. The petitioner has been allowed to continue to act as General Manager -cum- Company Secretary since the bifurcation of the post of General Manager -cum- Company Secretary has been made as a single post in the 128th Board Meeting dated 15.12.2015.

4.As per the 1st respondent in its 128th Board Meeting held on 15.12.2015 has unanimously ratified the circular issued on 30.10.2015 and the petitioner has been re-designated as a General Manager -cum- Company Secretary and this resolution has been passed to maintain the status quo of the post of the General Manager -cum- Company Secretary by nullifying the resolution passed in the Corporation 118th



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Meeting to bifurcate the post as a General Manager in Group-A category and the Company Secretary as a Group B post and the subsequent gazette publication dated 03.06.2014 will be infructuous. No further Board Resolution has been passed to alter the 128th Board Meeting Resolution against the Original Recruitment Rules of the post as a single post till date and effect of the 128th Board Meeting resolution is still in force even today.

5. On 17.12.2015, one Trade Union had filed a Writ Petition in W.P.No.40617 of 2015 dated 18.12.2015 before this Court and this Court directed the Chief Secretary to the Government of Puducherry to decide the matter on merits and in accordance with Law. On 02.05.2016, the Board has deferred the amalgamation decision with the suggestions to look for an alternative General Manager from the Government, on deputation and accordingly, the file was mooted to the post the suitable officer from the Government, whereas



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Mr.K.Kumarakrishnan had then recently taken over charge as Managing Director and Mr.V.Kishore Kumar, the petitioner was permitted to continue the administrative work as a temporary measure. The Management of the 1st respondent is already on the look out for a suitable officer from the Government to the post of General Manger as soon as a new General Manager is posted the additional given to the petitioner will be withdrawn and allowed to function only as a Company Secretary.

6.On 25.04.2018, the petitioner was directed to handover the charge of the post of the General Manger and the petitioner was directed to hold the post of the Company Secretary alone. The Petitioner is going to retire in the month of April 2022 and the petitioner was allowed to act as a General Manager -cum- Company Secretary till 26.09.2018 without any disturbance from the date of the



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recruitment. That being the case, the petitioner on 28.09.2018 was relieved from the post of General Manager -cum- Company Secretary and directed to act as a Company Secretary only. Therefore, the petitioner seeks for mandamus, forbearing the respondent to maintain the status quo order passed as per the 128th Board resolution held on 15.12.2015.

7.The learned counsel appearing for the 1st respondent would submit that the petitioner retired from service on 30.04.2022 itself and nothing survives for adjudication in this matter. Further, he would submit that the petitioner retired from service and all the terminal benefits ought to have been fixed in accordance with Law and that cannot be decided in this Writ Petition. Hence, this Writ Petition has become infructuous.



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Accordingly, this Writ Petition is dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

mps

To

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V.BHAVANI SUBBAROYAN, J,

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