



WEB COPY

W.P.No.2451



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.24511 of 2012

T.V.Govindarajan

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Transport Department,
Fort St. George, Chennai – 600 009.

2. Metropolitan Transport Corporation (Chennai) Ltd.,
Rep. by its Managing Director,
'Pallavan House', Pallavan Salai,
Chennai – 600 002.

3. State Express Transport Corporation (Tamil Nadu) Ltd.,
Rep. by its Managing Director,
'Thiruvallurvar Ilam', Pallavan Salai,
Chennai – 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to Lr.No.18054/LS(CM)/IV/MTC/03 dated 09.11.2011 issued by the Respondent No.2 and to quash the same insofar as it denies the claim of the petitioner for absorption, regularisation and permanent status as Company Secretary and consequently direct the respondents to settle all the monetary benefits due to the petitioner like provident fund and gratuity, including pensionary benefits in the



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scale of pay for the post of Assistant Manager within a time frame.

For Petitioner : Mr.K.M.Ramesh, Senior Counsel

For R1 : Mr.S.Rajesh,
Government Advocate

For R2 : Mr.C.Gouthamaraj (MTC)

For R3 : Mr.L.S.M.Hasan Fizal (SETC)

ORDER

The brief facts that are relevant for disposal of this Writ Petition are as under:-

1.1 The petitioner herein joined the services of the erstwhile Madras State Transport Corporation in the year 1965 in clerical cadre and then, he was promoted to the posts of 'Superintendent' and 'Senior Superintendent Grade-II' on 15.07.1983 and 16.10.1990 respectively. (While the petitioner was working as such, the Tamil Nadu State Transport Department was bifurcated into various Corporations). Pursuant to the applications called for by the then Pallavan Transport Corporation Ltd., which was subsequently renamed as Metropolitan Transport Corporation (Chennai) Ltd., for filling up the posts of 'Company Secretary' on deputation basis. The petitioner having found himself qualified, submitted an application and accordingly, he was appointed as 'Company



Secretary' on deputation basis on 26.11.1995. Pending finalization of the terms and conditions of the said post of 'Company Secretary', the petitioner was paid the pay and allowance, as was paid in his parent Corporation i.e., Respondent No.3/ State Express Transport Corporation (Tamil Nadu) Ltd., It is thereafter, the petitioner was promoted as 'Senior Superintendent Grade I' in the Respondent No.3 Corporation on 03.06.1996 in his own turn and accordingly, he was paid the pay and allowance attached to the post of 'Senior Superintendent Grade I' by the Respondent No.2. Thereafter, the petitioner made a claim for absorption of his services in the Respondent No.2 Corporation as 'Company Secretary' and for payment of the pay and allowance applicable to the said post. The said request of the petitioner was forwarded to the Respondent No.1 by the Respondent No.2 and Respondent No.1 through communication dated 07.08.2001 required the Respondent No.2 to take a decision for itself.

1.2 While so, the Respondent No.2 Corporation has undertaken process for filling up the post of 'Company Secretary' once again and accordingly, the petitioner was sought to be repatriated to the Respondent No.3 Corporation. At that stage, the petitioner approached this Court by filing W.P.No.6640 of 2003 and by virtue of the interim order dated 28.02.2003 passed therein, the petitioner continued in the Respondent No.2 Corporation in the post of 'Company Secretary'



till he attained the age of superannuation on 30.09.2004. Accordingly, the petitioner was relieved from the post of 'Company Secretary' by the Respondent No.2 on 30.09.2004. Thereafter, the terminal benefits of the petitioner were settled by Respondent No.3. In the meanwhile, W.P.No.6640 of 2003 filed by the petitioner came to be disposed of by this Court by an order dated 28.10.2010, directing the Respondent No.2 therein to consider the claim of the petitioner for absorption in the post of 'Company Secretary' in the scale of pay applicable to the post of 'Assistant Manager', after completion of 5 years of service from the date on which he was promoted to the post of 'Senior Superintendent Grade I'. It is pursuant to the said order dated 28.10.2010 passed by this Court, the Respondent No.2 considered the claim of the petitioner for being absorbed in the post of 'Company Secretary' and passed an order dated 09.11.2011, rejecting the claim of the petitioner through the impugned order, which reads as under:-

"With reference to your letter in the reference 2nd cited, we wish to inform that in compliance of Hon'ble High Court order dated 28.10.2010 in W.P.6640/2003, the difference of pay in the post of Assistant Manager Cadre from 03.05.2001 to till the date of retirement i.e. on 30.09.2004 was worked on the basis of scale of pay and the service details furnished by the SETC Ltd and after deducting the pay already drawn by you in the senior superintendent cadre comes to Rs.7091/- and in that amount, a sum of Rs.3115/-was deducted towards P.F. amount and the net amount of Rs.3976/-was paid to you on 30.04.2011 by way of cheque.

In this connection, we further wish to inform that you were on deputation with MTC Ltd., Chennai-2 in the Cadre of



Senior Superintendent till the date of relieving from MTC Ltd., Chennai-2 on the Fore Noon of 30.09.2004. On reversion to your Corporation i.e. SETC and your retirement benefits on attaining the age of superannuation was also settled by your Corporation (SETC Ltd). After the date of relieving from MTC Ltd., there is no lien with our Corporation. Hence, the absorption and regularization of Company Secretary Post in the Assistant Manager's scale of pay in MTC Ltd., does not arise.”

2. Heard Mr.K.M.Ramesh, learned Senior Counsel for the petitioner, Mr.S.Rajesh, learned Government Advocate for the 1st respondent, Mr.C.Gouthamaraj, learned counsel for the Respondent No.2 and Mr.L.S.M.Hasan Fizal, learned counsel for the Respondent No.3 and perused the entire material on record.

3. There is no dispute on the factual aspects. The petitioner was substantially holding the post of 'Senior Superintendent' in the Respondent No.3 Corporation was sent on deputation to the Respondent No.2 Corporation to work as 'Company Secretary' for a stipulated period. The said deputation was extended subsequently and thereafter, the petitioner continued in the said post by virtue of the interim order dated 28.02.2003 passed by this Court in W.P.No.6640 of 2003 till he attained the age of superannuation on 30.09.2004. Thereafter, the terminal benefits of the petitioner were settled by the Respondent No.3 Corporation.



4. The Respondent No.2 Corporation called for applications for filling up the posts of 'Company Secretary' only on deputation basis, but not on regular basis. Though, there was a proposal by the Respondent No.2 on considering the representation made by the petitioner for absorption of his services as 'Company Secretary', the same was not materialized and when the petitioner was sought to be repatriated to the Respondent No.2 Corporation, the petitioner approached this Court and continued as 'Company Secretary' till he attained the age of superannuation. The petitioner who went on deputation to the Respondent No.2 Corporation has no right as such to claim for absorption or for permanent appointment. As a matter of fact, the petitioner was holding lien in the post of 'Senior Superintendent Grade I' in the Respondent No.3 Corporation and his services were never absorbed nor there was any assurance by the Respondent No.2 Corporation at any point of time to absorb the services of the petitioner. Merely because the petitioner is qualified to hold the post of 'Company Secretary', does not confer any right upon the petitioner to claim for absorption on permanent basis. Admittedly, the petitioner was paid all the terminal benefits from the Respondent No.3 Corporation in the post of 'Senior Superintendent Grade I' after he was relieved from the Respondent No.2 Corporation and received by the petitioner without any protest. Having accepted all the terminal benefits from the



Respondent No.3 Corporation in the post of 'Senior Superintendent Grade I', the petitioner is estopped from claiming any absorption in the post of 'Company Secretary' or 'Assistant manager' in the Respondent No.2 Corporation. The main basis for the petitioner to claim for absorption is the order dated 28.10.2010 passed by this Court in W.P.No.6640 of 2003. A perusal of the said order goes to show that there was any positive direction to absorb the services of the petitioner in the Respondent No.2 Corporation. The only direction was to consider the claim of the petitioner in the light of the observations made therein. In the absence of any legal basis for the petitioner to make a claim for absorption in the Respondent No.2 Corporation, the order passed by this Court in W.P.No.6640 of 2003 cannot be understood as a positive direction, compelling the Respondent No.2 to absorb the services of the petitioner in the Respondent No.2 Corporation. Further, in terms of the order passed by this Court, the Respondent No.2 has already paid the differential amount of pay between the post of 'Senior Superintendent Grade I' and the post of 'Company Secretary' and the same was admittedly received by the petitioner.

5. In the light of the above, this Court does not find any error or illegality in the impugned order passed by the Respondent No.2 and accordingly, the Writ Petition is dismissed. No costs. Connected Miscellaneous Petitions, if any shall



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stand closed.

20.08.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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

MUMMINENI SUDHEER KUMAR, J.

skr

2. Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
'Pallavan House', Pallavan Salai,
Chennai – 600 002.
3. Managing Director,
State Express Transport Corporation (Tamil Nadu) Ltd.,
'Thiruvallurvar Ilam', Pallavan Salai,
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