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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

CORAM

THE HONOURABLE MR.JUSTICE **MUMMINENI SUDHEER KUMAR**

**W.P.No.35360 of 2012 &**
**M.P.No.1 of 2012**

A.Gregory
Assistant Manager (Operation)
State Express Transport Corporation
(Tamilnadu) Ltd.,
Nagerkoil, Kanyakumari ...Petitioner

Vs

1. The Managing Director,
State Express Transport Corporation
(Tamil Nadu) Ltd., No.2,
Pallavan Salai, Chennai – 2

2. The General Manager
State Express Transport Corporation
(Tamil Nadu Ltd., No.2,
Pallavan Salai, Chennai – 2 ..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the respondents of the impugned order in Order No.09/019510/HR6/SETCTN/2007-I dated 10.10.2012 issued by the 1st respondent and quash the same and consequently direct the respondents to restore the petitioner in the promotion post of Assistant Manager (Technical) with effect from the date of promotion on 21.12.2010 with all



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consequential and other benefits within a time frame.

For Petitioner : Mr.G.Sankaran
Sr.Counsel for
Mr.Nedunchezhiyan

For Respondents : Mr.L.S.M.Hasan Faizal
Additional Government Pleader

**O R D E R**

The petitioner was initially appointed as Junior Engineer on 13.06.1983 with diploma qualification in respondent / Corporation and subsequently, he was promoted to the post of Assistant Engineer with effect from 01.06.1989 and further, promoted to the post of Senior Assistant Engineer with effect from 01.01.1999. While the petitioner was in service, he acquired degree qualification i.e., B.E.Mechanical in the month of November, 1998. While so, the case of the petitioner was considered for promotion to the post of Assistant Manager along with others against the quota ear marked for degree holders and accordingly, he was promoted to the post of Assistant Manager (Technical) through proceedings dated 14.01.2011. Accordingly, the petitioner was continuing in the said post. While so, the impugned proceedings dated 10.10.2012 came to be issued changing the date of promotion of the petitioner from 21.12.2010 to 22.06.2012 without assigning any reason or without putting the petitioner on



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notice. It is aggrieved by the said order dated 10.10.2012, the petitioner approached this Court by filing the Writ Petition.

2. In response to the notice issued by this Court, the respondents filed counter affidavit stating that in terms of the Rules, the Diploma Holders on acquiring the degree qualification are required to be placed below all the Degree Holders as on the date of acquiring such degree and accordingly, their case would be considered for promotion to the post of Assistant Manager [Technical] in the quota earmarked for Degree Holder or in the quota earmarked for Diploma Holder, as the case may be, in whichever stream his case comes up for consideration first. In the instant case, the petitioner was considered in the quota earmarked for degree holders by treating him as senior instead of placing him as last candidate among the degree holders, as on the date of acquiring such degree by the petitioner. Therefore, the said error was sought to be rectified by issuing impugned proceedings.

3. Mr.G.Sankaran, learned Senior Counsel for the petitioner contended that the petitioner was senior to one S.Narayana Murthy, who was also a diploma holder and was considered for promotion to the post of



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Assistant Manager – Technical in the very same resolution dated 21st December, 2010 along with the case of the petitioner in 161st Meeting of the Board. Though the petitioner was senior to the said Narayana Murthy, he was promoted to the post of Assistant Manager – Technical along with the petitioner. If the case of the petitioner cannot be considered, as against the quota earmarked for degree holders, the case of the petitioner is required to be considered as against the quota earmarked for diploma holders and in such a case, the petitioner would be entitled for promotion to the post of Assistant Manager ahead of said Narayanamurthy.

4. This Court having perused the seniority list filed along with the typed set, *prima facie,* found that the petitioner is senior to the said S.Narayanamurthy and the said S.Narayanamoorthy was considered and promoted to the post of Assistant Manager (Technical) along with the petitioner with effect from 14th January, 2011. If that be the case, the respondents, while issuing impugned order altering date of promotion to the petitioner, ought to have taken into consideration the claim of the petitioner against the quota earmarked for diploma holders along with other eligible candidates, for promotion to the post of assistant manager from among the



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diploma holders. But such an exercise was not undertaken by the respondents while issuing impugned order.

5. In the circumstances, such an action of not putting the petitioner on notice while issuing impugned order certainly requires to be found fault. Had the respondents afforded such an opportunity to the petitioner, the petitioner would have been in a position to explain and claim for consideration in the quota earmarked for diploma holders. In these circumstances, this Court does not find any justification to issue impugned proceedings without following the principles of natural justice.

In the circumstances, this Court is convinced that the petitioner is prejudiced for want of putting on notice. Accordingly, the impugned order is set aside and the Writ Petition is allowed leaving it open to the respondent to take action in accordance with law. In case, if the petitioner makes any claim for consideration and his claim is against the quota earmarked for diploma holders, the same shall be considered by the respondents in accordance with law. Consequently, connected miscellaneous petition is



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closed. No costs.

18.09.2024

Index: Yes/No;
Internet: Yes/No
Speaking order / non speaking order
ssd

To

1. The Managing Director,
   State Express Transport Corporation
   (Tamil Nadu Ltd., No.2,
   Pallavan Salai, Chennai – 2

2. The General Manager
   State Express Transport Corporation
   (Tamil Nadu Ltd., No.2,
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**MUMMINENI SUDHEER KUMAR J.,**

ssd

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**M.P.No.1 of 2012**

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