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W.P.No23284 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.23284 of 2016

and

W.M.P.Nos.19964 and 19965 of 2016

R. Karmegavannan,

... Petitioner

Vs.

1. The Chairman,
Boards of Management - SETC & State Transport Undertakings,
Principal Secretary to Government,
Transport Department,
Secretariat, Fort St. George,
Chennai -600009.
2. The Managing Director,
State Express Transport Corporation (Tamil Nadu)
Limited (SETC), Thiruvalluvar House,
Pallavan Salai, Chennai -600002.
3. The General Manager,
State Express Transport Corporation (Tamil Nadu)
Limited (SETC), Thiruvalluvar House,
Pallavan Salai, Chennai -600002.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, directing the respondents to promote the petitioner to the post of Assistant Manager (Technical) by including the petitioner in the appropriate place in the seniority panel of Technical Supervisory category with degree holders with effect from 2014-2015 with



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all service, monetary & other attendant benefits.

For petitioner : Ms.Dakshyani Reddy
Senior Counsel
for Mr.S.Gajendran
For R1 : Mr.S.Rajesh
Government Advocate
For R2 & R3 : Mr.Ilamvalodhi
Senior Counsel
For Mr.S.Sivasubramani
Senior Counsel

ORDER

This writ petition is filed seeking for a direction the respondents to promote the petitioner to the post of Assistant Manager (Technical) by including the petitioner in the appropriate place in the seniority panel of Technical Supervisory category with degree holders with effect from 2014-2015 with all service, monetary & other attendant benefits.

2. The facts in brief as per the affidavit enclosed in this writ petition are as follows:

2.1. The petitioner completed his pre technical course in Engineering in April 1977 conducted by the Government of Tamil Nadu through the Department of Technical Education; completed his Diploma in Mechanical Engineering (DME) in May 1980 and AMIE degree in



Mechanical Engineering in 1986 & 1994. Pursuant to passing the Sections A & B of AMIE, the petitioner was elected as an Associate in the Institute of Engineers (India). The petitioner had passed the Supervisory Examination in November 1995 held by the Institute of Road Transport and he also possess Heavy Vehicle & Transport Vehicle Driving License.

2.2. The petitioner entered into service on 16.03.1998 as company trainee *vide* order No.35727:TTC:A6:87, dated 17.03.1988 and was sent for training for one year at various places and after completion of his training, he was appointed as Junior Engineer (JE) w.e.f. 01.04.1989. His service was regularized w.e.f. the date of his entry into service and his probation was declared *vide* No.004004/R4/TTC/91, dated 18.05.1991 in the post of Junior Engineer (Technical) JE (T) w.e.f. 07.04.1990.

2.3. The petitioner was promoted as Assistant Engineer (AE) *vide* No.9/10289/P3/SETC (TN Div 1)/2000, dated 18.01.2001 w.e.f. 01.01.1999 and subsequently as Senior Assistant Engineer (Sr AE) *vide* order No. 10026/AS/SEI TN/2003-4, dated 19.11.2003, w.e.f. 01.04.2001 thereby, completing more than 28 years of continuous service in State Express Transport Corporation without any blemishes.



2.4. The petitioner has made endorsements regarding his qualifications, i.e. DME Diploma, AMIE degree, IRT's Supervisory Examination & possession of Heavy Vehicle & Transport Vehicle Driving Licence, in his service register so as he would be eligible for his next promotion.

2.5. While so, the Government of Tamil Nadu *vide* G.O.Ms.No. 1246, Public Works Department, dated 01.08.1981, had treated the qualification of pass in Sections A & B of AMIE (India) Examination on par with B.E. degree for the purpose of appointments to Public Service and had accordingly amended the Special Rules for the Tamil Nadu Engineering Subordinate Services (with effect from 01.08.1981). Thus, his qualification of pass in Sections A & B of AMIE has to be treated on par with B.E. degree qualification. The petitioner's name was included in Sl.No.47 in the seniority panel of Technical Supervisory category with Diploma holders prepared in 2011. Though, the panel was not officially published, the petitioner objected the said panel, since his name ought to have been included in the seniority panel of Technical Supervisory category with degree holders, in view of acquiring AMIE degree, even by virtue of G.O.Ms.No.1246, dated 01.08.1981. Some of the names of the



persons in the said seniority panel of Technical Supervisory category with Diploma holders find a place in the seniority panel of Technical Supervisory category with degree holders also. In spite of the petitioner's objections, his name was included in the said seniority panel of Technical Supervisory category with degree holders. Hence, he made repeatedly representations, where the last representation was dated 01.05.2016 but no response.

2.6. The Finance Committee of the Board of Management of SETC met on 07.06.2016 and had considered the names of the petitioner's juniors, inter-alia, Selvaraj & Jayakumar, overlooking his seniority. The petitioner submitted representations dated 16.06.2016 & 20.06.2016 to the respondents, in person and by post. Even though the respondents have acknowledged his representations, no positive action has been taken to prepare a seniority panel by including the petitioner's name also at the appropriate place and by considering the qualifications & eligibility of person in the seniority panel. Aggrieved by the same, the present writ petition.



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3. The second and the third respondents have filed counter affidavit and submitted that as per G.O.Ms.No.1246, Public Works Department dated 01.08.1981 is only for the PWD Department and that the Government *vide* letter No.39144/C2/84-10 dated 22.07.1985 stated that it is not necessary to give effect to the amendment referred in G.O.Ms.No. 1246, Public Works Department dated 01.8.1981. It is further in the counter affidavit that the petitioner is at 21st place in the existing seniority list among the Technical Supervisors and that the tentative seniority list of Assistant Engineers (both degree / Diploma holders) were communicated to all employees fixing the last date of receipt of objections but the petitioner did not raise any objections and that the objections received from the other individuals were examined by the committee constituted for that purpose .

4. Further, the learned counsel for the respondents submitted that the feeder category to the post of Assistant Manager (Technical) is Assistant Engineer and A.Jayakumar, was directly appointed as Assistant Engineer during 1994 S.Selvaraj was appointed as Junior Engineer and subsequently promoted as Assistant Engineer based on the qualification of B.E. But the petitioner has completed only AMIE which is not equal to



B.E as per the Government of Tamil Nadu Transport Department, Chennai, letter No.39144/C2/84-10, dated 22.07.1985. Even though, the petitioner and one S.Selvaraj were promoted as Assistant Engineers on the same date i.e., on 01.01.1999, S.Selvaraj has become eligible for promotion to the cadre of Assistant Manager (Technical) as per the seniority in degree holders category.

5. The promotion to the post of the Assistant Manager will be considered among the Degree holders and Diploma holders at the ratio of 3:1. The petitioner's qualifications is A.M.I.E is not equal to that of B.E degree as per the Government of Tamil Nadu, Transport Department, letter No.39144/C2/84-10 dated 22.07.1985 and hence, the petitioner's name could not be included in the Degree holders seniority list . The petitioner is eligible for promotion based on only the seniority of Diploma holders. S.Selvaraj has completed the degree and has come in the degree holders seniority and hence, the petitioner cannot be compared with the said Seivaraj.

6. The contention of the petitioner is that the petitioner is AIME degree holder and the same is equivalent to B.E. degree and thereby, his



name shall be included in the panel for promotion. The petitioner has quoted several judgments to the effect that AIME degree is equivalent to that of degree qualification.

7. A Division Bench of this Court in ***Kartar Singh v. Union of India and others***, after analyzing various aspects went on to hold that the qualification of AIME granted by the Institute of Engineers, Kolkatta is a statutory qualification.

8. In ***Institution of Mechanical Engineering vs. State of Punjab and others*** reported in (2019) 16 SCC 95, it is held that the equivalence certificate was granted by MHRD in consultation with AICTE upto 31.05.2013. The petitioner has completed his degree prior to the year 2013.

9. On perusal of judgments of the apex Court and various other High Courts and also considering the persons who are similarly placed to that of the petitioner, the petitioner is also entitled for the relief sought for.



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10. In view of the above discussions, this writ petition is allowed.

The respondents are directed to consider his qualification of AIME as equivalent to that of B.E. Degree and pass appropriate orders as quickly as possible within a period not later than ten weeks from the date of receipt of a copy of this order. Connected W.M.Ps are closed. No costs.

25.03.2024

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Dr.D.NAGARJUN,J.

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To,

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Principal Secretary to Government,
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Secretariat, Fort St. George,
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