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W.P.Nos.13383 of 2020, 9017 and 5911 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.13383 of 2020, 9017 and 5911 of 2021

and

W.M.P.Nos.16513 and 16517 of 2020, 9553 and 6531 of 2021

V.B.Ravikumar

... Petitioner in all W.Ps

Vs.

1.The Principal Secretary to Government,
Transport Department,
Secretariat,
Chennai – 600 009.

2.The Managing Director,
MTC (Ch) Ltd,
Pallavan Salai,
Chennai – 600 002.

... Respondents in all W.Ps

3.M.Mohamed Ismail

4.P.P.Gemini

... Respondents in W.P.No.13883 of 2020

5.Selva Kumar

Assistant Manager,
MTC(Ch) Ltd,
Pallavan Salai,
Chennai – 600 002.

... Respondent in W.P.No.5911 of 2021



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Prayer in W.P.No.13383 of 2020: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 2nd respondent in Ref No.200016/PS(A)1/MTC/2020 dated 18.06.2020 and quash the same and consequently direct the 2nd respondent to place the petitioner as Serial No.1 in the seniority list.

Prayer in W.P.No.9017 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 2nd respondent in Memo No.082/PS(A)MTC/2017 dated 06.02.2021 and quash the same and consequently direct the 2nd respondent to change the petitioner's date of confirmation as senior superintendent as 29.04.2018.

Prayer in W.P.No.5911 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the 2nd respondent to promote the petitioner as Assistant Manager with the relevant existing scale of pay ahead of 3rd respondent and place the petitioner as senior to the 3rd respondent with effect from 29.06.2019 with arrears.

For Petitioner : Mr.K.Rajasekaran
(in all W.Ps)
For Respondents : Mr.M.Murali
(in all W.Ps) Government Advocate
for R1
Mr.Ramanlal, AAG
asst by Mr.R.Balaji
for R2



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COMMON ORDER

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The issue that arises for consideration in all these three writ petitions are pertaining the service of the petitioner, in the second respondent/Corporation, especially with regard to his seniority in the cadre of Superintendent and Senior Superintendent and as such all the matters are taken up for consideration together and are being disposed of by this common order.

2. The petitioner herein was initially appointed as Apprentice (Junior Assistant) on 27.08.1986 in Tamil Nadu State Transport Corporation (Kumbakonam Limited) and promoted to the post of Superintendent with effect from 27.04.2013 and thereafter, the petitioner on his request was transferred to the second respondent/corporation and accordingly joined in the second respondent/corporation in the cadre of Superintendent on 01.08.2017. Proceedings No.F/M/v z;/123-ggp(epu;1-khngfh- 2017 dated 01.08.2017 through which the petitioner was transferred contained a specific condition that the petitioner shall occupy the last rank in the cadre of Superintendent in second respondent/corporation. There is no dispute about the said condition imposed in the proceedings dated 01.08.2017 or there was any resistance from the petitioner against the said condition. Thereafter, the petitioner continued in the



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second respondent/corporation. His case was considered for promotion to the post of Senior Superintendent and accordingly along with several others the petitioner was also promoted to the post of Senior Superintendent through Memo No.082/PS(A)1/MTC/2017 dated 01.09.2018 with effect from 29.04.2018 and whereas the other six persons who are seniors to the petitioner in the cadre of Superintendent in the second respondent/corporation were given promotion with effect from 02.05.2018 and 21.06.2018. The benefit of the said promotions was conferred upon the petitioner and the others considering the date on which each of them completed five years of service in the cadre of Superintendent. As the petitioner was promoted to the post of Superintendent in the erstwhile Corporation i.e., Kumbakonam Corporation on 29.04.2013, the petitioner was given the benefit of promotion to the post of Senior Superintendent with effect from 29.04.2018 and whereas the others who are seniors to the petitioner in the second respondent/corporation in the cadre of Superintendent were promoted with effect from subsequent dates i.e., the date on which they completed five years of service in the cadre of Superintendent.

3. Thereafter, a dispute arose with regard to seniority of the petitioner in the cadre of Superintendent and in the cadre of Senior Superintendent



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consequent upon the rectification of seniority made by the second respondent/corporation in the cadre of Superintendent.

4. Aggrieved by the same, the petitioner had filed W.P.No.13383 of 2020. During pendency of the said writ petition one Mr.Selvakumar was promoted to the post of Assistant Manager from the cadre of Senior Superintendent. Aggrieved by the same, the petitioner filed W.P.No.5911 of 2021. During the pendency of the above two writ petitions, the second respondent issued impugned memo dated 06.02.2021 changing the date of promotion of the petitioner to the post of Senior Superintendent from 29.04.2018 to 22.06.2018. It is aggrieved by the said memo dated 06.02.2021 the petitioner filed W.P.No.9017 of 2021.

5. Heard the learned counsel for the petitioner and the learned counsel Government Advocate for the respondent No.1 and learned counsel for the respondent No.2.

6. The only issue that needs to be decided in these writ petitions is as to whether the petitioner is entitled to the benefit of promotion in the cadre of



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Senior Superintendent from the date of promotion assigned to his seniors in the cadre of Superintendent?

7. Admittedly, the respondent Nos.3 to 5 in W.P.No.13383 of 2020 and respondent No.3 in W.P.No.5911 of 2021 are working in the cadre of Superintendent as on the date of petitioner joining in the second respondent/corporation on 01.08.2017. By virtue of condition No.3 imposed in proceedings No. F/M/v z;/123-ggp(epu)1khngfh- 2017 dated 01.08.2017, the petitioner has to take last rank in the cadre of Superintendent as on 01.08.2017. There is no dispute on this aspect. In the absence of any dispute about the same, the question of petitioner being treated as senior to the unofficial respondents in the cadre of Superintendent does not arise.

8. When the case of the petitioner and his seniors were considered for promotion to the post of Senior Superintendent and all of them were promoted to the said post through a common proceedings, the petitioner was given benefit of promotion with effect from 29.04.2018 by considering the fact that the petitioner had completed five years of service in the cadre of Superintendent by 29.04.2018 and the seniors were given the benefit of promotion from



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subsequent dates i.e. with effect from the date on which he completed service of five years in the cadre of Superintendent.

9. By virtue of the benefit of promotion given to the petitioner w.e.f. 29.04.2018 the petitioner was placed in more advantage position than seniors and therefore on the request made by the seniors, the said date of promotion was shifted by the second respondent/corporation placing the petitioner below his seniors after obtaining an opinion from the learned Advocate General for the respondent and communicated the same to the petitioner through letter No.082/epu;(1)-khngfhf- 2017 dated 23.01.2021.

10. Thereafter, the respondents/corporation issued impugned proceedings dated 06.02.2021 modifying the date of promotion from 29.04.2018 to 22.06.2018. From the above, it is evident that the impugned proceedings came to be issued only to rectify the mistake in giving the promotion to the petitioner from the date anterior to the date of promotion to his seniors to the cadre of Superintendent. Absolutely nothing is placed before this Court to satisfy as to how the petitioner is entitled for promotion from the date anterior to the date of promotion of his seniors in the cadre of Superintendent. In the absence of any



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explanation being putforth by the petitioner to justify his promotion ahead of the seniors in the cadre of Superintendent to the post of Senior Superintendent, this Court does not find any error or illegality in the impugned order dated 06.02.2021 passed by the second respondent.

11. No doubt, on the perusal of the impugned proceedings, it appears that the same was issued in violation of principles of natural justice. But, this Court after having examined the entire factual facts of the case is of the considered view that though the impugned order came to be issued in violation of principles of natural justice, that does not require remand, as no useful purpose would be served on remand to the respondent/corporation.

12. Under these circumstances, this Court is convinced that there is no error or illegality in the proceedings dated 06.02.2021 and accordingly W.P.No.9017 of 2021 is dismissed.

13. In the light of the above, the seniority being claimed by the petitioner against the respondent No.2 in W.P.No.5911 of 2021 and claim for promotion



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to the post of Assistant Manager cannot stand and accordingly W.P.No.5911 of 2021 is also dismissed.

14. In the light of the above, the claim for seniority made by the petitioner in W.P.No.13383 of 2020 also does not stand, as the petitioner is entitled to claim his seniority only from 01.07.2017 on which date the petitioner joined in the second respondent/corporation and all other private respondents have been working as Superintendent as on 01.08.2017 in the second respondent/corporation. Hence, the claim of the petitioner for seniority over to the other private respondents is unsustainable and accordingly this writ petition also dismissed.

15. These writ petitions are dismissed. No costs. Consequently, connected writ miscellaneous petitions are closed.

30.07.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

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