



W.P.No.15360 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE MRS.JUSTICE **N.MALA**

W.P.No.15360 of 2017 &
W.M.P.Nos.16653 to 16655 of 2017

N.Ramesh

... Petitioner

Vs.

1. The State of Tamilnadu
Rep. By the Principal Secretary to Government,
Transport Department, Fort St. George,
Chennai – 600 009
2. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Limited, Salem – 7
3. The Convenor,
Career Planning Committee
TNSTC Employees' Pension Trust,
Thiruvalluvar House, Pallavan Salai,
Chennai – 600 002
4. A.Dharmaraj
Special Officer, Chairman Cell,
Transport Department,
Chennai – 600 009
5. P.Ravindran
Managing Director,
Tamilnadu State Transport Corporation,
(Kumbakonam) Limited,
Kumbakonam



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6. V.Shanmugasundaram
Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore)Limited,
Coimbatore

7. C.V.Elangovan
Managing Director,
Tamilnadu State Transport Corporation,
(Madurai) Limited,
Madurai

8. K.Moni
Managing Director,
Tamilnadu State Transport Corporation,
(Tirunelveli) Limited,
Tirunelveli

... Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to G.O.(Ms) No.35, Transport (D) Department dated 08.05.2017 and G.O.(D) No.39 Transport (D) Department dated 07.06.2017 issued by the 1st respondent to re-draw the panel for promotion to the post of Manager (Technical) including the petitioner's name in the appropriate place over and above his juniors within a time frame.



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For Petitioner : Mr.K.M.Ramesh
Senior Counsel for
Mr.S.Apunu

For Respondents : Mrs.S.Anitha for R1
Special Government Pleader
Mr.M.Aswin for R2
Standing Counsel
Mr.C.Senapathi for R5
Standing Counsel
Mr.S.Mohan &
M/s V.Valarmathi – for R7 and R8
R3, R4 and R6 – No appearance

ORDER

The Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to G.O.(Ms) No.35, Transport (D) Department dated 08.05.2017 and G.O.(D) No.39 Transport (D) Department dated 07.06.2017 issued by the 1st respondent to re-draw the panel for promotion to the post of Manager (Technical) including the petitioner's name in the appropriate place over and above his juniors within a time frame.

2. The petitioner joined the erstwhile Kattabomman Transport Corporation as Assistant Branch Manager (Technical) Trainee on 07.01.1985 and his services were regularised with effect from 01.01.1986. On 02.09.1987, the petitioner was transferred to the erstwhile Annai Sathya



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Transport Corporation. The petitioner was later promoted as Assistant Manager on 12.01.1993. As per the prevailing Rules, the qualifying service for next promotion to the post of Selection Grade Assistant Manager was 6 years. The petitioner completed 6 years of qualifying service on 11.01.1999, therefore, the 21st Finance Committee and 64th Board Meeting, approved the promotion of the petitioner and forwarded the proposal to the Government on 06.04.2011. The said proposal was kept pending for approval of Government for over five years and meanwhile, in the year 2013, the Rule relating to qualifying service for promotion to the cadre of Selection Grade Assistant Manager was enhanced from 6 years to 8 years.

3. Consequently, the Transport Corporation, while granting promotion to the petitioner adopted the New Rule of 8 years for qualifying service instead of 6 years. Whereas the petitioner's juniors working in other Transport Corporations were given promotion as Selection Grade Assistant Manager on completion of 6 years, the petitioner was denied the benefit of 6 years qualifying service. The petitioner, therefore, filed Writ Petition No.39279 of 2016 praying for a direction to the respondents to apply 6 years Rule to the petitioner and consequently grant him Selection Grade Assistant Manager with effect from 11.01.1999.



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4. The Writ Petition, viz., W.P.No.39279 of 2016 was allowed by this Court on 26.04.2017 directing the 1st respondent to comply with the direction issued therein within a period of eight weeks. While the matter stood thus, the 1st respondent issued impugned Government Order dated 08.05.2017 drawing the panel for the post of Manager (Technical), in which the petitioner's juniors' names were included. Though objections were called for and the petitioner had also submitted his objections, the same was not considered and the 1st respondent vide impugned Government Order dated 07.06.2017 promoted the petitioner's juniors.

5. The Writ Petitioner has filed the present Writ Petition challenging the aforesaid Government Orders dated 08.05.2017 and 07.06.2017, by which the petitioner's juniors were promoted as Managers with a consequential direction to the 1st respondent to redraw the panel for promotion as Manager -Technical by including the petitioner's name in the appropriate place over his juniors within a time frame.

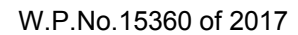
6. The respondents 1 and 2 filed a detailed counter affidavit. The sum and substance of which was to sustain the impugned orders.



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7. It is admitted by the respondents that the petitioner had earlier approached this Court by filing W.P.No.39279 of 2016 for issuance of a Writ of Mandamus directing the respondents to grant Selection Grade Assistant Manager promotion to the petitioner on completion of 6 years of service, i.e., with effect from 11.01.1999 and consequently, direct the respondents to re-fix the petitioner's seniority as Deputy Manager and Senior Deputy Manager over and above his juniors for inclusion of his name in the panel for promotion to the post of Managing Director in State Transport Corporations, within a time frame, apply 6 years rule and give Selection Grade Asst. Manager with effect from 11.01.1999. This Court, on contest, held as follows:-

“For all the aforementioned reasons, this Court is of the considered view that the petitioner is entitled to succeed and accordingly, this writ petition is allowed directing the respondents to grant Selection Grade Assistant Manager promotion to the petitioner on his completion of qualifying service of 6 years, viz., with effect from 11.01.1999 within a period of eight weeks from the date of receipt of a copy of this order. Needless to mention that the petitioner is entitled to get the consequential benefits by refixing his seniority as Deputy Manager and Senior Deputy Manager over and above his juniors. Costs made easy. Connected W.M.P., is closed.”



9. Be that as it may, admittedly, the order of the Court was not implemented till the petitioner's retirement. Had the order been implemented in time, the petitioner's seniority would have been re-fixed and the petitioner would have got further promotion as Manager on the basis of his seniority.

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would be relevant to point out that against the order passed in W.P.No.39279 of 2016, the respondents filed Writ Appeal in No.806 of 2017 and the Writ Appeal was disposed of on 05.09.2017 recording the statement of the learned Additional Advocate General that in Writ Appeal (MD) Nos.1 and 105 of 2017, by order dated 13.03.2017, certain directions were issued and the said direction was fully complied with vide G.O.(Ms)No.196, Transport Department dated 10.08.2017. The relevant portion of the order is extracted hereunder:-

“2. The writ appeal is filed challenging the order of the learned Single Judge granting the relief of re-fixation of seniority and promotion in the State Transport Corporation. It is brought to the notice of the court by the learned Additional Advocate General that in the case of similarly placed persons, this Court had already given some directions to the authorities, vide order dated 13.03.2017 in W.A(MD) Nos.1 and 105 of 2017 and the above directions were fully complied with and produced a copy of the government order in G.O.(Ms) No.196 Transport (D) Department dated 10.08.2017 to substantiate his contention.”

12. It is also relevant to note here that G.O. referred to in the order in the Writ Appeal, i.e, G.O.(Ms) No.196 dated 10.08.2017 was challenged before the learned Single Judge of the Madurai Bench of this Court in



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W.P.(MD) Nos.15773, 17321 and 17444 of 2017 and the learned Single Judge quashed G.O.(Ms)No.196 vide order dated 21.03.2018.

Subsequently, the Writ Appeal in W.A.Nos.1671 to 1673 of 2018 filed against the learned Single Judge's order were disposed of recording the statement of the learned Government Pleader that nothing survived for consideration in the Writ Appeals, as the petitioners in the Writ Petition were promoted as Managing Directors and they also superannuated. The relevant portion of the order in the Writ Appeals is extracted hereunder:-

“3. The learned Special Government Pleader submitted that the respondent in W.A(MD) No.1673/2018 (R.Muthukrishnan) and WA(MD) No.1671/2018 (B.Selvagomathi) have since been promoted to the post of Managing Directors and have also superannuated. This Court is also informed that after superannuation, Selvagomathi has passed away, which incidentally need not halt this Court from proceeding with the case. So far as the respondent in WA(MD) No.1672/2018, he had been promoted as General Manager and he too had superannuated. The Special Government Pleader made a fair statement that today nothing survives for consideration. The said submission of the learned Special Government Pleader is recorded and all the writ appeals are closed. No costs. Consequently connected Miscellaneous Petitions are closed.”



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13. Therefore, the present position is that the order in the Writ Petition has not been implemented inspite of the submission before this Court in W.A.No.806 of 2017.

14. It is therefore clear that the petitioner, as per the orders of this Court, is entitled to get promotion by fixing his seniority, as Junior Manager and Senior Deputy Manager over and above his juniors. The respondents issued the impugned order dated 08.05.2017 drawing panel for the post of Manager-Technical without including the petitioner's name and consequently vide impugned order dated 07.06.2017 granted promotion to the petitioner's junior. As the petitioner as well as the private respondents, 7 and 8 have retired, no purpose will be served by setting aside the impugned order. I am therefore of the view that under the facts and circumstances of the case, the prayer in the Writ Petition needs to be moulded. Therefore, a direction is issued to the respondents to notionally promote the petitioner to the post of Manager-Technical with effect from the date his juniors were promoted vide impugned order dated 07.6.2017 and to grant all monetary benefits to the petitioner within a period of eight weeks from the date of receipt of copy of this order.



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The Writ Petition is accordingly allowed with the aforesaid direction.

Consequently, connected miscellaneous petitions are closed. There is no order as to costs.

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Index: Yes/ No
Internet: Yes/ No
Speaking Order/ Non Speaking Order
ssd

To

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N.MALA,J.

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