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W.P. No.17349 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

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THE HONOURABLE MRS.JUSTICE N.MALA

W.P. No.17349 of 2017

A.Balasubramanian

... Petitioner

Vs

1.The Additional Chief Secretary to Government -
cum- The Chairman, State Express Transport
Corporation, Transport Department,
Secretariat,
Chennai 600 009.

2.The Managing Director,
State Express Transport Corporation Ltd.,
No.2, Pallavan Salai,
Chennai 600 002.

3.The Secretary to Government (Expenditure),
Finance Department,
Secretariat,
Chennai 600 009.

4.A.Lakshminarayanan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Certiorarified Mandamus directing the respondents to call
for the records issued by the 2nd respondent vide his Circular



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No.054283/HR6/SETCTN/2010 dated 21.06.2017 and quash the same and direct the 2nd respondent to revise the seniority list.

For Petitioner : M/S.D.Soundar Raj

For Respondents : Mrs.S.Anitha,
Special Government Pleader for R1 and R3.

M/S.L.S.M.Hasan Fizal,
Standing Counsel for SETC (AGP) for R2.

M/S.S.Mohan for R4.

ORDER

The writ petition is filed challenging the circular of the 2nd respondent dated 21.06.2017 in Circular No.054283/HR6/SETCTN/2010 giving the seniority list of Assistant Managers in Administrative and Accounts Wing, whereunder the 4th respondent, despite being the petitioner's junior was fixed in higher position than the petitioner.

2. The petitioner was appointed as a Superintendent in the 2nd respondent Corporation on 01.07.1987, whereas the 4th respondent was appointed as a Superintendent on 01.06.1989. The 2nd respondent Corporation was bifurcated into two entities one as SETC and another as JJTC. The employees of the 2nd respondent Corporation were transferred to JJTC on random basis. The 4th respondent was



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transferred to JJTC, where he subsequently received an accelerated promotion as Senior Superintendent. After 5 years, the two Corporations were amalgamated, resulting in single coporation i.e., SETC.

3. The petitioner relied on the order of this Court in *M.AL.Karrupiah and others v. Tamil Nadu State Transport Coporation, Coimbatore Division -I Ltd.*, in *W.P.Nos. 14384 to 14390 of 2002* in support of his contention that seniority ought to be recokned from the date of joining the parent Corporation and not on the basis of the subsequent promotion after bifurcation of the Corporation. According to the petitioner, the said order was confirmed by the Division Bench of this Court in *W.A.Nos.840 to 846 of 2008* and by the Hon'ble Supreme Court in *S.L.P(C).Nos.13857 to 13861, 13865 and 13870 of 2010*. As the seniority list was not revised as ordered by this Court, the petitioner was constrained to file a writ petition before the Madurai Bench of this Court in *W.P.No.23346 of 2016*. The Court, vide order dated 01.12.2016, directed the respondents to consider the petitioner's representation dated 29.04.2016 and to pass order on merits and in accordance with law within a period of 8 weeks from the date of receipt of a copy of the order. The petitioner stated that the 2nd respondent issued the impugned circular after a lapse of six months, in total violation of the orders passed by this Court in *W.P.Nos. 14384 to 14390 of 2002* dated 02.01.2007 and therefore



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aggrieved by the impugned circular, the petitioner filed the present writ petition.

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4. The 2nd respondent filed a detailed counter stating that the contention of the petitioner that the 4th respondent was junior to him was incorrect. The State Government had taken a policy decision to bifurcate the erstwhile Thiruvalluvar Transport Corporation Ltd., into J.J.Transport Corporation Ltd., and Thiruvalluvar Transport Corporation Ltd. During the bifurcation, employees were given the option to join either J.J. Transport Corporation Ltd. or remain with Thiruvalluvar Transport Corporation Ltd.

5. The respondents stated that both the petitioner and the 4th respondent were provided equal opportunities. The petitioner opted to stay in Thiruvalluvar Transport Corporation Ltd., whereas, the 4th respondent opted for J.J.Transport Corporation Ltd., and served in Madurai and Thanjavur. Due to the availability of vacancies, the 4th respondent was promoted as Senior Superintendent in the year 2007 and therefore the claim of the petitioner that the 4th respondent was junior to him was totally incorrect. The amalgamation of the two Transport Corporations with SETC did not take away the service advantage accrued to the 4th respondent during his tenure in J.J.Transport Corporation Ltd. According to the respondents, the judgments relied on by the petitioner were not applicable to the facts of this case.



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6. The learned counsel for the petitioner submitted that the issue in the writ petition is squarely covered by the order of this Court in W.P.Nos. 14384 to 14390 of 2002 dated 02.01.2007 and therefore the petitioner is entitled to the relief prayed for. This Court in the said writ petition at paragraph 5 held as follows:

“5. In the above circumstances, the first respondent is directed to examine the entire issue within a period of 30 days from the date of receipt of copy of this order and issue a revised seniority list of all the officers, taking the joining date of the employees with the parent organisation and not the date of subsequent promotion after bifurcation of the Corporation and the original date of appointment with the parent Corporation alone should be taken into consideration. It is clarified that if any person is not promoted by the parent Corporation on the ground of disciplinary action or enquiry or whatever may be, the said employee cannot claim seniority over the genuine promotion of the junior, but if a junior is promoted merely because he has been transferee and posted in the transferee Corporation and he is continuing to enjoy the same status even after amalgamation with the parent organisation, the said defect has to be set right by the corporation authorities. ”

7. From the above, it is seen that this Court directed the Transport Corporation to issue necessary revised seniority list of all its employees by taking the date of joining in the parent Corporation as the relevant date. The above order was confirmed by the Division Bench of this Court in W.A.Nos.840 to 846 of 2008



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dated 02.09.2008 and by the Hon'ble Supreme Court in S.L.P(C).Nos.13857 to 13861, 13865 and 13870 of 2010 dated 27.01.2017. As the impugned circular is issued in violation of the aforesaid orders, the same cannot be sustained.

8. In the light of the above discussions, the impugned order is set aside. The 2nd respondent is directed to issue revised seniority list as per the directions of this Court as confirmed by the Hon'ble Supreme Court within a period of 6 weeks from the date of receipt of a copy of this order.

9. In the result, the writ petition stands allowed. No costs.

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Speaking (or) Non Speaking Order
Index : Yes/ No
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N.MALA, J.

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