



W.A.(MD)No.433 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.A.(MD)No.433 of 2022
and
C.M.P.(MD)No.4218 of 2022**

The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai Division) Limited,
Bye Pass Road,
Madurai - 625 010.

... Appellant / 2nd Respondent

Vs.

1.A.K.Thangavelu ... 1st Respondent / Petitioner

2.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Transport Department,
Secretariat, Fort St.George,
Chennai - 600 009.

3.R.Subramaniyan,
Assistant Manager (Legal),
TNSTC Ltd, Madurai Region,
Bye Pass Road, Madurai - 625 010.



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4.K.Muthupandi,
Assistant Manager (Legal),
TNSTC Ltd, Madurai Region,
Bye Pass Road, Madurai - 625 010.

5.K.Thirugnanasamandam,
Assistant Manager (Legal),
TNSTC Ltd., Dindigul Region,
Dindigul.

... Respondents 2 to 5/
Respondents 1 & 3 to 5

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to set aside the order dated 31-01-2022 made in W.P(MD).No.7011 of 2013 on the file of this Court.

For Appellant : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.J.Senthil Kumaraiah,
Standing Counsel.

For Respondents : Mr.S.Govindan for R1
Mr.K.Selvaganesan,
Addl. Government Pleader for R2.

JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

Thiru.A.K.Thangavelu / first respondent herein filed
W.P.(MD)No.7011 of 2013 seeking promotion to the post of Assistant



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Manager (Legal). In the said writ petition, he questioned the order dated 29.05.2012 passed by the Managing Director, TNSSTC Madurai Division Limited negating his request. The learned Single Judge vide order dated 31.01.2022 allowed the writ petition and directed the management to place the writ petitioner notionally as Superintendent (Legal) from the year 1995 onwards and disburse the monetary benefits to the writ petitioner and thereafter grant notional promotion and monetary benefits in the post of Assistant Manager (Legal). Questioning the said order, this intra-court appeal has been filed.

2.The learned Additional Advocate General assisted by the learned standing counsel for the management submitted that the impugned order passed by the learned Single Judge deserves to be reversed for the reasons set out in the memorandum of grounds of the writ appeal.

3.Per contra, the learned counsel for the first respondent / writ petitioner submitted that the learned Single Judge rightly allowed the writ petition and that it does not warrant interference. He pointed out that the writ petitioner joined the corporation as Clerk way back in the



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year 1983 and that he was appointed as Assistant in the year 1990. He by then acquired law degree. His core contention is that the writ petitioner was placed in the legal department and made to work as Superintendent. Relying on a catena of judgments, he submitted that if even an unqualified person is made to work in a given post, he should be paid the pay and allowances attached to the said post. He also submitted that three of his juniors had been appointed as Assistant Manager (Legal). He therefore called upon this Court to sustain the impugned order and dismiss the writ appeal.

4. We carefully considered the rival contentions. The following table sets out the inter-se service particulars of the writ petitioner vis-a-vee, the three private respondents named in the writ petition:

Designation	Eligible years for review	A.R.Thangavelu	B.Subramanian 3rd Respondent	K.Muthupandi 4th Respondent	G.Thangarajasingam 5th Respondent
Class		DL-04-1983	—	01.08.1983	—
Qualification (Eligible/Acquired)		10th pass/B.Sc.	B.Com.	B.A.	B.Sc.
Junior Assistant		27.09.1984	01.12.1980	28.06.1987	15.04.1982
Assistant	6 years completed from Junior Assistant	01.11.1980	01.02.1987	01.08.1992	01.03.1988
Senior Assistant	8 years completed from Assistant	01.01.1999	—	—	01.11.1995
		Not posted to new Corporation	—	Respondents No.4 & 5 were transferred to bifurcated new Corporation M/s.Veeran Sundaralingam Transport Corporation, Shudhanagar on 01.05.1997	
Superintendent	Subject to vacancy	29.12.2018 as per Seniority (Date of supersession 11.05.2012)	17.08.1993 Direct Recruitment as Superintendent for ACS Qualification	28.10.1997 (Direct recruitment as Superintendent for III Qualification in the newly formed M/s.Veeran Sundaralingam Transport Corporation, Shudhanagar)	28.10.1997 (Direct recruitment as Superintendent for III Qualification in the newly formed M/s.Veeran Sundaralingam Transport Corporation, Shudhanagar)
Eligible years to reach Senior Superd/Actual seniority rendered by the employees		5 years / 2.5 years	5 years / 5 years 2 month	5 years / 6 years	5 years / 9 years
Senior Superintendent	5 years completed from Superintendent	—	01.10.1998	28.10.2003	28.10.2006



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5.It can be seen therefrom that while the writ petitioner became Superintendent only in December 2010, the private respondents namely, R.Subramaniyan, K.Muthupandi and K.Thirugnanasamandam were appointed as Superintendent much earlier. Subramaniyan became Superintendent in the year 1993. Whereas Muthupandi and Thirugnanasamandam became Superintendent in the year 1997. They were appointed to the said post on direct recruitment basis. They subsequently became Senior Superintendents and were appointed as Assistant Manager (Legal).

6.It is not in dispute that the post of Assistant Manager (Legal) is to be filled by promotion from among the holders of the post of Senior Superintendent (Legal). The writ petitioner became Superintendent only in the year 2010 and he retired in the year 2012. He never held the post of Senior Superintendent (Legal). Since the three persons named as private respondents in the writ petition had become Superintendent much earlier, by no stretch of imagination, they can be called as the writ petitioner's juniors. It is true that the writ petitioner became Junior



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Assistant in the year 1984 and Muthupandi became Junior Assistant in the year 1987. But then, Muthupandi had become Superintendent on direct recruitment basis in 1997 itself. Therefore, the three persons had clearly had taken a lead over the writ petitioner. The writ petitioner is labouring under an erroneous impression that R.Subramaniyan, K.Muthupandi and K.Thirugnanasamandam are his juniors. They ceased to be his juniors, the moment they became Superintendents. The writ petitioner was only in the post of Assistant then.

7.We are clearly of the view that this basic aspect was not taken note of by the learned Single Judge. In this view of the matter, the order impugned in the writ appeal is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (R.P. J.)
15.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Principal Secretary to Government,
Transport Department,
Secretariat, Fort St.George,
Chennai - 600 009.



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