



WA(MD). No.792 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 15/07/2024

CORAM

**Justice N.SESHASAYEE
and
Justice P.VADAMALAI**

**WA(MD). No.792 of 2018 and
WMP(MD) No.4697 of 2018**

R.Mahendran

... Appellant/ third
Paarty

Vs

1.B.Selva Gomathi Kumar
General Manager,
Tamilnadu State Transport Corporation
Tirunelveli Limited
Tirunelveli Region,
Vannarapettai, Tirunelveli

... Writ petitioner

2.The Principal & Additional Chief Secretary to Government
Government of Tamilnadu
Transport Department
Fort St. George, Secretariat
Chennai 9

... Respondents/
Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent
against the order dated 21.03.2018 in WP(MD) No.15773/2017.

For Appellant : M/s.D.Selvanayagam



WA(MD). No.792 of 2018

For Respondents : Mr.T.Chandrsekaran for R1

Mr.N.Muthuvijayan for R2
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by N.SESHASAYEE, J.)

This appeal is preferred by a third party to WP(MD) No.15773/2017 challenging the order dated 21.03.2018. The said petition was filed by the first respondent herein challenging the validity of G.O.Ms.No.196 Transport (D1) Department dated 10.08.2017.

2. A brief backdrop to this proceedings may now be provided:
 - a) The Government run transport corporation had various categories or offices in the managerial cadre. They started with Assistant Managers, Deputy Managers, Senior Deputy Managers, Managers and Senior Managers. The promotion is from the basic cadre, namely, the Assistant Manager to the next higher post, namely, Deputy Manager and so on;
 - b) While so, several Assistant Managers got stuck in the same post



WA(MD). No.792 of 2018

WEB COPY

without promotion and to ameliorate their difficulty, Government came up with G.O.Ms.No.61 Transport (Committee) Department dated 30.04.1993. Vide this G.O., the Government had accepted Paragraph Nos.169 and 170 of the report of the expert committee of transport sector. Accordingly, if any Assistant Manager was stuck on they serving six years in the post of Assistant Managers, they would be called as Selection Grade Assistant Managers and they would be entitled to receive the scale of pay as the Deputy Managers. While giving effect to this recommendation, in Paragraph 4 of this Government order, it is stated that the position of Selection Grade Assistant Managers and Deputy Managers are convertible;

- c) G.O.Ms.No.761 dated 30.04.1993 held the floor for 25 years. Eventually, there were certain anomaly, which came to be challenged before this Court in WA(MD) Nos.1 and 105 of 2017. Pursuant to certain directions given by this Court, the Government came out with G.O.Ms.No.196 dated 10.08.2017. In this G.O., the Government had made it clear that the post of Selection Grade



WEB COPY



WA(MD). No.792 of 2018

Assistant Manager is not equivalent to the post of Deputy Manager and that the post of Selection Grade Assistant Manager itself is not a promotional post but is only feeder category for Deputy Managers and it required the Managing Directors of various Government run transport corporations to refix the seniority based on this G.O. Couple of those, who were the beneficiaries of G.O.Ms.No.761 dated 30.04.1993, challenged the validity or the constitutionality of this G.O.Ms.No.196 dated 10.08.2017, on the ground that it is hit by the vice of being arbitrary. This contention was accepted by the learned Single Judge but held the same as arbitrary and hence, un-struck it down;

- d) The Government promptly challenged this in WA(MD) Nos.1671 to 1673 of 2018, but that came to be closed based on the submission made by the appellant that all those, who are likely to be benefitted by G.O.Ms.No.196, have all superannuated.
- e) It is in these circumstances, the appellant herein, who was the Deputy Manager as on the date when G.O.Ms.No.196 dated



WA(MD). No.792 of 2018

WEB COPY

10.08.2017 came into force, comes out with his grievance that in view of this G.O., few of his juniors were benefitted, whereas, he did not. He, however, added that the appellant too has since superannuated on 30.06.2018.

3. Heard both sides. Today, there is hardly a challenge to the order of the learned Single Judge striking down G.O.Ms.No.196 dated 10.08.2017 and even if the order of the learned Single Judge is perused, his line of reasoning that the said G.O., suffers from the vice of arbitrariness continues to loom large. Having said that the appellant should not go remedyless, after all, G.O.Ms.No.196 dated 10.08.2017 had an effective shelf-value of seven months and few days within which some are stated to have been unduly benefitted over the appellant. This has to be set right. By so doing, this Court does not say those who have already benefitted by the wrong policy of the Government should be striped off the benefit they claimed. All this Court states is that the appellant must be given his due.

5. The appellant is now directed to make his representation to the 2nd



WA(MD). No.792 of 2018

respondent, who shall now consider his representation of what is held in this judgment.

6. Writ Appeal is accordingly disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

(N.S.S.,J.)

(P.V.M.,J.)

15.07.2024

NCC : Yes/No
Index : Yes/No
RR

To
The Principal & Additional Chief Secretary to Government
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WEB COPY



WA(MD). No.792 of 2018

N.SESHASAYEE, J.
and
P.VADAMALAI, J.

RR

WA.(MD)No.792 of 2018

15.07.2024