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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.12573 of 2017

1. M.Veluchamy
2. The General Manager,
Hindu Religious and Charitable Endowments Department,
Madras. ... Petitioners

Vs.

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai-10
2. The General Manager (Administration),
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai-10
3. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Tirunelveli Regional Office,
Tirunelveli.



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4. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Virudhunagar Regional Office,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue of *Writ of Certiorarified Mandamus* calling for the records relating to the impugned order dated 22.08.2011, passed by the 1st respondent in Na.Ka.No.Muu.Mu.AE5/97148/2009 and the impugned order in Na.Ka.No.AE5/46984/2015, dated 31.03.2017 passed by the 1st respondent herein and quash the same and consequently direct the respondents to give notional promotion to the petitioner in the cadre of Assistant and Superintendent with all the monetary benefits from the date on which his immediate junior was promoted. **[Prayer amended vide Order of this Court, dated.29.08.2024]**

For Petitioner : Mr.S.Gokulraj

For Respondents : M/s.A.K.Baskara Pandiyan,
for R-1 to R-3

ORDER

This Writ Petition is filed for *Writ of Certiorarified Mandamus* to quash the impugned order dated 22.08.2011 and consequently direct the



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respondents to give notional promotion to the petitioner in the cadre of Assistant and Superintendent with all the monetary benefits.

2. The brief facts are that the petitioner was appointed as a Training Bill Clerk on 29.06.1980 in the 3rd respondent's office. His service was regularized on 22.05.1990, after he had completed 10 years of service in the cadre of Packer. Then he was promoted as Bill Clerk during November 1993, granted Selection Grade in the year 2003 in the cadre of Bill Clerk. Then, he was promoted as Junior Assistant on 01.08.2008 by the 3rd respondent and he joined duty on 08.08.2008. Thereafter, the petitioner was transferred from the Office of the 3rd respondent to 4th respondent's office in the existing vacancy in the cadre of Junior Assistant, vide order of the 1st respondent dated 12.12.2008 and he has relieved from the office of the 3rd respondent on 26.12.2008 and he joined duty in the new place on 29.12.2008.



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3. The contention of the writ petitioner is that after putting nearly 4 ½ months of service, to the shock and surprise of the petitioner, the 4th respondent vide order, dated 27.01.2009 demoted the petitioner and reverted to the post of Bill Clerk and the reason is for want of vacancy. The respondents further stated the panel was revised for the post of Bill clerk for the year 2007 was published and the persons have been promoted as Junior Assistant during January 2009 and as all the sanctioned post of Junior Assistant is filled up, therefore, there is no vacancy to accommodate the petitioner. The order passed by the 4th respondent is patently illegal and arbitrary and there cannot be any circumstance to demote the petitioner. The petitioner was promoted as Junior Assistant as early as on 01.08.2008 and he was transferred to Virudhunagar Region in the cadre of Junior Assistant in the existing vacancy by the 1st respondent on 12.12.2008 and he had also assumed charge on 29.12.2008. Therefore, the 4th respondent cannot state that he had filled up the post of Junior Assistant on 27.01.2009 and therefore there is no vacancy at all. Further, once again transferred to Tirunelveli Region on 28.05.2009 and he was acted in the last place as Bill clerk, thereby he lost his



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promotional opportunity. Finally, he attained superannuation on 31.03.2017 and he retired from service. Hence, he seeks notional promotion in the post of Junior Assistant and Superintendent.

4. The 3rd respondent has filed counter and submitted that the petitioner was working as Junior Assistant at Virudhunagar Regional Office from 29.12.2008 to 28.01.2009 and by following TNCSC Employees Services Rules, 1989, he was reverted to Bill clerk as per proceedings No.E1/6388/07, dated 29.01.2009. The petitioner had preferred an appeal against the reversal and the reversal order was confirmed by the Managing Director, vide proceedings in No.AE5/97148/09, dated 22.08.2011. When the panel for the entire State was revised to Regional, the existing vacancy of Virudhunagar Region is not correct. Therefore, the petitioner could not be accommodated in the said post. Therefore, there is no illegality in the order passed by the respondents.



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5. After considering the rival submissions, this Court is of the considered opinion that the respondents being an employer is having power to revise the panel, if the panel is incorrect and not in accordance to law. And the respondents have rightly revised the panel thereafter it was declared that the vacancy shown in the Virudhunagar is no vacancy at all.

6. However, the respondents have stated that based on the request of the petitioner again the transfer order was issued. On perusing the said transfer order, the respondents have not referred to any petition filed by the petitioner. Hence it is evident that in order to avoid to accommodate the petitioner in Virudhunagar region, again he was transferred to Tirunelveli region. It may be for any reason, but it cannot be at the cost of the valuable rights of the petitioner and promotion opportunity.

7. Even the petitioner has received promotion on 26.12.2014, but he lost his promotional opportunity prior to the present promotion. He should have



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been accommodated to the post before his immediate junior was accommodated. Therefore, the petitioner is entitled for compensation since the petitioner had lost his valuable rights.

8. Considering the facts and circumstances of this case, the impugned orders are hereby quashed to the extent that the promotional opportunity which was declined by the respondents. The respondents are directed to quantify the monitory benefits in post of Superintendent at Tirunelveli region from the date of his immediate junior was granted promotion until his superannuation. The monitory benefits shall be granted to the petitioner. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of the order.



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9. With these observations, this writ petition is disposed of. No

Costs.

Index : Yes / No
Internet : Yes

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To

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S.SRIMATHY, J

KSA

**Order made in
W.P(MD)No.12573 of 2017**

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