

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.04.2024

Pronounced on : 30.04.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.19396 and 9218 of 2018

W.P.No.19396 of 2018

G.Ravichandran

... Petitioner

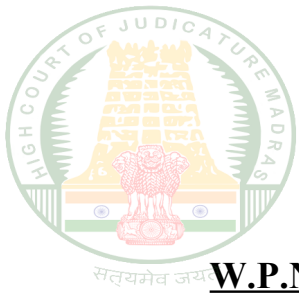
Vs.

1. The Additional Chief Secretary to Government
& Additional Chairman of All State Transport Undertakings,
Transport Department, Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

2. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem, 12, Ramakrishna Road,
Salem – 636 007.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to promote Petitioner to the post of Assistant Manager (Legal) with effect from 31.05.2015 on which the Petitioner's Juniors/ persons who do not possess prescribed educational qualifications as contemplated in the Common Service Rules got promotion as Assistant Manager (Legal) along with all benefits within a reasonable time frame fixed by this Honourable Court.



W.P.No.9218 of 2018

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G.Ravichandran

... Petitioner

Vs.

1. The Additional Chief Secretary to Government
& Additional Chairman of All State Transport Undertakings,
Transport Department, Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.
2. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem, 12, Ramakrishna Road,
Salem – 636 007.
3. The General Manager,
Tamil Nadu State Transport Corporation (CBE) Ltd., Salem,
Dharmapuri Region, Salem Main Road,
Bharathipuram, Dharmapuri – 636 705.
4. G.Saroja
5. G.Purushothaman
6. R.Venkatakumar
7. Manimohan.P
8. Natarajan K

... Respondents

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promotion as Assistant Manager (Legal) along with all benefits within a reasonable time frame fixed by this Honourable Court.

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For Petitioner : Mr.L.Chandrakumar
for Mr.E.Mohamed Abbas
(in all W.Ps)

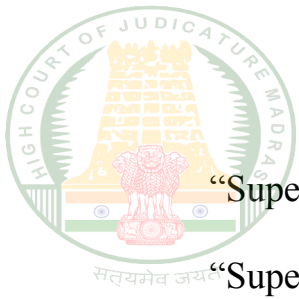
For R1 : M/s.E.Ranganayaki,
Additional Government Pleader

For R2 & R3 : Mr.R.Neelakandan,
Additional Advocate General VIII
assisted by Mr.R.Babu,
Standing Counsel for TNSTC

COMMON ORDER

These Writ Petitions are filed by the same petitioner and the issue that would arise for consideration is also identical and as such, both the matters were heard together and are being disposed of by this common order.

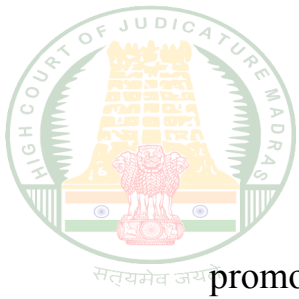
2. The petitioner herein was initially appointed as “Record Clerk (Company Trainee)” on 11.06.1988 in the respondents Corporation and thereafter, the said post was re-designated as “Junior Assistant (Company Trainee)” on 12.12.1988 and his services were regularized in the said post with effect from 01.07.1989. Thereafter, the case of the petitioner was considered for further promotions to the posts of “Assistant” and “Senior Assistant,” “Selection Grade Assistant” and then to the post of



“Superintendent”. After completing the period of probation in the post of “Superintendent”, the petitioner was appointed as a “Senior Superintendent”

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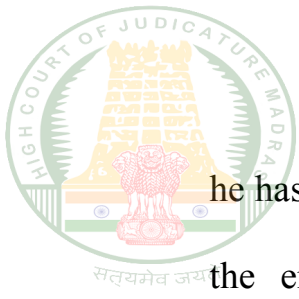
as fresh entrant through order dated 30.05.2015 and he has completed his probation of two years in the said post on 29.05.2017. During the said period, with the permission of the respondents Corporation, the petitioner claimed to have acquired qualification of Degree in Law besides certain Diplomas. The petitioner having acquired the Degree in Law claims to be qualified for promotion to the post of “Assistant Manager (Legal)” in the respondent Corporation and approached this Court by filing W.P.No.19396 of 2017, complaining that the respondents Corporation, instead of considering the case of the petitioner for promotion to the post of “Assistant Manager (Legal)”, have promoted the juniors of the petitioner though they do not possess the requisite qualification of Decree in Law. During the pendency of the above Writ Petition, when the respondents Corporation prepared a seniority list of persons holding the post of “Senior Superintendent” and eligible for promotion to the post of “Assistant Manager”, the petitioner once again approached this Court by filing W.P.No.9218 of 2019, questioning the said seniority list.



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3. In a nutshell, the claim of the petitioner is that in order to claim promotion/ appointment to the post of “Assistant Manager (Legal)”, one must possess the qualification of Decree in Law, in terms of the Common Service Rules, as applicable to the respondent Corporation and it is only the petitioner, who is having such qualification and working in the feeder category of “Senior Superintendent (Legal)”. But the respondents Corporation instead of considering the case of the petitioner for promotion to the post of “Assistant Manager (Legal)”, they are considering the cases of “Senior Superintendents”, who do not possess the basic qualification of Decree in Law for promotion to the post of “Assistant Manager (Legal)”, ignoring the claim of the petitioner.

4. In response to the claim made by the petitioner, the respondents have filed separate counter-affidavits in both the Writ Petitions. It is the specific stand of the respondents that though the petitioner was initially appointed as “Record Clerk” in the year 1988 and further promoted to the post of “Superintendent” in the year 2012 and also completed probation in the said post, the petitioner was appointed as “Senior Superintendent” as fresh entrant on 30.05.2015 and he was placed on probation for a period of two years and



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he has completed his probation only on 29.05.2017. Thus, it is contended that the entire past service rendered by the petitioner till the date of his appointment to the post of “Senior Superintendent” on 30.05.2015 is not available to the petitioner for counting the same for the purpose of further promotion or for appointment to the post of “Assistant Manager (Legal)” and such service is available only for the limited purpose of retirement benefits such as gratuity, provident fund, pension and leave settlement. According to the respondents, it is only on such condition to treat the petitioner as fresh entrant, the petitioner was appointed to the post of “Senior Superintendent (Legal)”. Further, it is also the contention of the respondents Corporation that in terms of that Rule 60(d)(i) of the Common Service Rules, unless the petitioner completes five years of service in the cadre of “Senior Superintendent”, he is not eligible for promotion to the post of “Assistant Manager (Legal)” for want of completing the qualifying service of five years in the cadre of “Senior Superintendent”.

5. It is also further contended that in terms of the Common Service Rules, in addition to possessing the Degree in Law, one must have practical experience in the Civil Court or Mofsel Court as an Advocate but the



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petitioner is not even enrolled with the Bar Council to acquire such qualification. Thus, it is contended that the petitioner is not qualified for the post of “Assistant Manager (Legal)”. It is also further contended that no juniors of the petitioner were promoted to the post of “Assistant Manager (Legal)” and the persons alleged to have been promoted ahead of the petitioner were not promoted as “Assistant Manager (non-technical)” but not as “Assistant Manager (Legal)”. It is also further contended that the persons, who are holding the post of “Assistant Manager (Legal)” are fully qualified to hold the said post. The relevant paragraphs from the counter-affidavit filed by the respondents in W.P.No.19396 of 2018 viz., Paragraph Nos.20 to 22 reads as under:-

“ 20) It is submitted that the allegation of the petitioner that the juniors have been promoted and he has not been promoted is totally wrong. The petitioner was in the 11th position in the Seniority list as on 01.07.2017. Thiru.K. Kasi was in 4th position and Thiru.R. Durairaj was in 5th position. Hence, the averment of the petition that the junior have been promoted and the petitioner has not been promoted is totally wrong.

21) It is submitted that the persons who do not possess requisite qualification has been promoted as Assistant Manager (Legal) is totally false. Thiru.C.Selvam, Thiru.V.Murali, Thiru.K.Kasi and Thiru.R.Durairaj have been promoted as Assistant As Manager (Non-Technical) only and not as Assistant Manager(Legal).

22) It is submitted that two (2) Legally qualified Assistant Managers are available. One is Thiru.R.



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Somasundaram and another one is S. Rangan. Thiru R. Somasundaram is functioning as Assistant Manager(Legal-Corporate). The Legal Corporate wing is functioning at Corporate Office. There are one Assistant Manager (Legal-Corporate) and Superintendent (Legal-Corporate). Both of them are legally Hence, the legal files are scrutinized and approved by the Legal Corporate Wing.”

6. In spite of the above specific averments made in the counter-affidavit filed by the respondents, no re-joinder is filed by the petitioner contradicting the said averments. In terms of Rule 60(d)(i) of the Common Service Rules, when the appointment is to the post in the grade of “Assistant Manager (Legal)”, one must have five years of experience in the feeder category viz., the post of “Senior Superintendent”.

7. In the case on hand, admittedly the petitioner was appointed to the post of “Senior Superintendent” as a fresh entrant only on 31.05.2015 and therefore, the question of petitioner completing the requisite five years of service, as on the date of filing of either of the Writ Petitions does not arise. Further, as contended by the respondents, the seniority list which is impugned in W.P.No.9218 of 2019 was prepared only by including the persons, who have completed five years of service in the cadre of “Senior Superintendent” and eligible for promotion to the post of “Assistant Manager (Admin/ Legal)”



and as and when the petitioner completes the requisite qualifying service, his name also would be included subject to fulfilling the qualification criteria.

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8. In the light of the above, this Court do not find any infirmity in the impugned seniority list prepared by the respondents. In the light of the above, this Court does not find any merit in both the Writ Petitions and the same are accordingly dismissed.

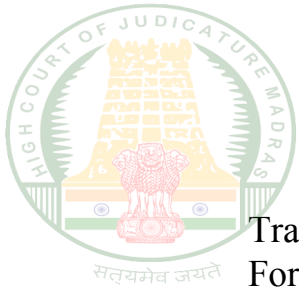
9. However, it is made clear that in case if the petitioner possess/ acquires requisite qualification for the post of “Assistant Manager (Legal), the case of the petitioner shall be considered by the respondents for promotion to the post of “Assistant Manager (Legal)” in accordance with law. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

30.04.2024
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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

1. The Additional Chief Secretary to Government



W.P.Nos.19396 and 9218 of



& Additional Chairman of All State Transport Undertakings,
Transport Department, Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

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2. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem, 12, Ramakrishna Road,
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MUMMINENI SUDHEER KUMAR, J.

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