

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2011

CORAM:

THE HONOURABLE MR. JUSTICE D. HARIPARANTHAN

W.P. (MD) Nos. 8991 of 2007 & 458 of 2008

and

M.P. Nos. 1 of 2007 & 2 of 2008

W.P. (MD) No. 8991 of 2007:

K. Kamal Batcha

Vs.

... Petitioner

1. The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Bye-pass Road,  
Dindigul, Dindigul District.

2. The Divisional Manager,  
Central Administrative Division,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Bye-pass Road,  
Dindigul, Dindigul District.

3. The Branch Manager,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Natham, Dindigul District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents not to proceed with the selection of driver instructors in pursuance of the present seniority list, without disclosing the educational qualifications in the relevant column in the seniority list as published as per the communication of the first respondent dated 03.10.2007 in Ref. MA.NI.PI.S.S.1868.

For Petitioner : Mr. Natarajan

For Respondents : Mr. Royce Emmanuel.S.

W.P. (MD) No. 458 of 2008:

K. Kamal Batcha

Vs.

... Petitioner

1. The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Bye-pass Road,  
Dindigul, Dindigul District.

2. The Divisional Manager,  
Central Administrative Division,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Bye-pass Road,  
Dindigul, Dindigul District.

3. Durai Pandian

4. T. Gurusamy

5. Kasi Rajan

6. S. Balan

7. C. Jeyaraj

8. Sardar Ali

9. Mohan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the first respondent dated 24.10.2007 in Ref:Admn/P1.738 and quash the same and further direct the respondents 1 and 2 to prepare a fresh seniority list in accordance to the rules and given due promotion to the petitioner.

For Petitioner : Mr. Natarajan  
For R1 & R2 : Mr. Royce Emmanuel  
For R3 to R9 : No Appearance.

#### O R D E R

The petitioner joined as a driver on 05.12.1978 in the respondent Corporation. He was recruited through employment exchange. He was initially appointed as probationer and he was regularised in service by an order dated 12.02.1980 with effect from 01.12.1979. On completion of six years of service, he was granted first review and was designated as senior driver. Thereafter, on completion of 14 years of service, he was granted selection grade. On completion of 24 years of service, he became a special grade driver.

2. While he was working as a special grade driver, the respondent issued the seniority list of Special grade drivers dated 03.10.2007. In the said seniority list, the name of the petitioner was not included. Further, the qualification of the drivers, who were shown in the seniority list was not disclosed.

3. Hence, the petitioner has filed W.P.No.8991 of 2007 questioning

the aforesaid seniority list. Thereafter, the respondent issued the order dated 24.10.2007 promoting 12 persons, who were working as Special grade drivers as driving instructors and except three persons, others were juniors to him and those juniors did not have required educational qualification, as per the service rules. Hence, the petitioner has filed W.P.No.8991 of 2007 questioning the aforesaid seniority list. The petitioner has filed W.P.No.458 of 2008 to quash the order dated 24.10.2007.

4. According to the petitioner, as per the service rules that was obtained under the RTI Act, the post of driving instructor has to be filled from the selection grade drivers, who possess the qualification of 10<sup>th</sup> standard or SSLC. But the respondent did not publish the seniority list of selection grade drivers at all. Further more, in the impugned seniority list, the name of the petitioner was not shown, though he was a special grade driver, when the seniority list of Special Grade drivers was published.

5. The respondent corporation filed counter affidavit. According to the respondent corporation, there is no specific mention of qualification for promotion to the post of driving instructor in the approved common service rules. It is also stated that the educational qualification is not a criteria for promotion to the post of driving instructor, as per the approved common service rules. It is admitted that the petitioner became special grade driver with effect from 01.04.2004. It is stated that since no objections were received against the seniority list, the petitioner could not complain about the non inclusion for his name in the seniority list dated 03.10.2007.

6. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the official respondents. The contesting respondents have not chosen to appear either in person or through counsel and they have not also filed any counter affidavit.

7. The petitioner became special grade driver on 01.04.2004 even as per the counter statement filed by the respondent corporation. When the respondent corporation published the seniority list on 03.10.2007 of special grade drivers, the name of the petitioner does not find place in the said seniority list. According to the petitioner, he gave a representation on 22.10.2007. According to the respondent corporation, the petitioner did not send any objection. But the seniority list is not a provisional one and the seniority list was a final seniority list. In any event, the petitioner has chosen to file W.P.No.8991 of 2007, immediately on the publishing of the seniority list questioning the seniority list. Therefore, I do not find any merit in the contention raised by the respondent corporation that the petitioner did not make any objection. When the respondent corporation has admitted that the petitioner is also a special grade driver as on 01.04.2004, no reason is given for not including his name in the seniority list. Hence, I have no hesitation to quash the impugned seniority list dated 03.10.2007, which was made without including the name of the petitioner and W.P.No.8991 of 2007 is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

8. The petitioner has produced the service rules that was obtained through R.T.I. Act. As per the service rules, the qualification prescribed for the post of Driving Instructors is a pass in 10<sup>th</sup> standard or S.S.L.C. In this case, admittedly, the respondents 3 to 9 in W.P.No.458 of 2008 do not have the required qualification. Furthermore, admittedly, they are juniors to the petitioner, which is not disputed by the respondent corporation. The service details of the respondents 3 to 9 provided by the respondent Corporation is extracted hereunder:-

TAMIL NADU STATE TRANSPORT CORPORATION (MADURAI) LTD: DINDIGUL REGION  
DICI. WK1  
DETAILS OF DRIVING INSTRUCTORS

Sl. No.	NAME (Thiru)	St.No	Educational Qualification	Date of Birth	Date of Service	Date of present post. As Spl. Gr. DR	Date of DI Promotion
1.	P. DURAI PANDIYAN	50317	8 <sup>th</sup> Std.	6.04.54	1.01.80	1.05.03	23.10.07
2.	T. GURUSAMY	50329	7 <sup>th</sup> Std.	20.2.53	1.01.80	1.05.03	23.10.07
3.	V. KASIRAJAN	50311	8 <sup>th</sup> Std.	7.06.50	1.12.79	1.08.03	23.10.07
4.	S. BALAN	50391	9 <sup>th</sup> Std.	17.1.55	1.06.80	1.11.03	23.10.07
5.	C. JEYARAJ	50372	5 <sup>th</sup> Std.	14.2.51	1.05.80	1.02.04	23.10.07
6.	M. SARTHARALI	50403	8 <sup>th</sup> Std.	5.05.50	1.07.80	1.02.04	23.10.07
7.	V. MOHAN	50442	8 <sup>th</sup> Std.	15.6.52	1.10.80	1.02.04	23.10.07

This shows that the respondents 3 to 9 are juniors to the petitioner and also they do not possess the required qualification. Hence, the impugned order dated 24.10.2007, insofar as giving promotion to them as Driving Instructors, is set aside. Accordingly, the respondent corporation is directed to grant promotion to the post of driving instructors in accordance with law. The writ petition in W.P.No.458 of 2008 is allowed to the extent indicated above. Consequently, connected Miscellaneous Petition is closed. No costs.

SD/-  
Assistant Registrar (CO)

/True Copy/

31/5/2011  
Sub Assistant Registrar

To  
1. The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Bye-pass Road, Dindigul, Dindigul District.

2. The Divisional Manager,  
Central Administrative Division,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Bye-pass Road,  
Dindigul, Dindigul District.

3. The Branch Manager,  
Tamil Nadu State Transport Corporation  
(Madurai Limit),  
Natham, Dindigul District.

+1 CC TO MR. S. NATARAJAN, ADVOCATE S.R NO. 13673

+1 CC TO THE SPECIAL GOVERNMENT PLEADER S.R NO. 14036

W.P. (MD) Nos. 8991 of 2007  
& 458 of 2008

and  
M.P. Nos. 1 of 2007 & 2 of 2008  
12.04.2011

rj2  
PAM 23.05.2011/6C/5P