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W.A No.3576 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09-01-2025**

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

W.A No.3576 of 2024 and CMP No. 27776 OF 2024

The Managing Director
State Express Transport Corporation,
No.2 Pallavan Salai , Chennai - 600 002.

... Appellant

Versus

1. Rangasamy.P

S/o.V.Ponnumani, Store Keeper A 1559,
Head Quarters Ticket main Store,
State Express Transport Corporation Ltd,
NO.2, Pallavan Salai, Chennai-02

2. The State of Tamil Nadu

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

3. The General Manager (Administration)

State Express Transport Corporation Ltd.,
No.2, Pallavan Salai, Chennai-600 002.

.... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent to set aside the order dated 20-07-2023 made in WP.No.19437 of 2017.

For Appellant : Mr.Mr.R.Ramanlal, Additional Advocate General
Assisted By Mr. S.Santhosa Kumar

For Respondents : Mr.J.Jayamalan - for R1



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ORDER

(Order of the Court was made by R.Suresh Kumar J.)

This intra court appeal has been directed against the order passed by the writ Court dated 20-07-2023 made in WP.No.19437 of 2017.

2. The first respondent / writ petitioner was initially appointed as a Store Keeper at the appellant organization ie., erstwhile Tiruvalluvar Transport Corporation, presently named as State Express Transport Corporation on 06.04.1982. His services were regularized on 01.09.1986 and after regularizing the services of the petitioner, a seniority list was also prepared and the petitioner was placed at Sl.No.7.

3. In the appellant Corporation there are two cadres of employees, one is 'Working Group' and another is 'Miscellaneous Group'.

4. The regular employees who have been working in the 'Working Group' would get regular promotion, whereas the regular employees who are in the 'Miscellaneous Group' might not be given the chance of getting promotion.

5. In order to settle this issue, there has been a settlement under Section 12(3) of the Industrial Disputes Act between the employer and the employees. By



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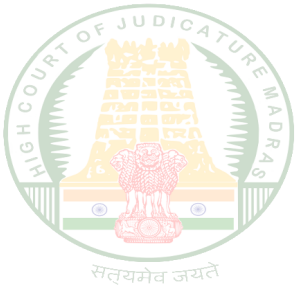
virtue of such settlement, certain benefits have been extended to the employees

which has been issued on 24.02.2011. One of the benefits extended to the employees is 'Review benefit', which means, at a particular interval there will be a financial benefit to the employees on the basis of the review which was hitherto given at the end of six years from the initial service and thereafter 8th year and 10th year ie., three review benefits had been given. It has been now made into five reviews ie., 6th, 7th, 8th and thereafter every three years.

6. In this context, it is further to be noted that, insofar as the promotional avenue for the employees who have been in the 'Miscellaneous Group' is concerned, after evaluating the issue, in order to redress the grievance of the employees in the 'Miscellaneous Group', the Government has come forward to issue Government Order in G.O.Ms.No.79, Transport Department dated 30.06.2015, wherein *inter-alia* a Scheme has been framed, which has been stated in Para 10 of the Government Order, which reads thus,

“ 10. After careful examination, the Government have decided to accept the recommendations of the Sub-Committee and ordered the following procedures for the promotion to the post of Superintendent in Miscellaneous Group of State Transport Undertakings:

(i) Bringing various posts available in the Miscellaneous Group in Administrative line of State Transport Undertakings under one common seniority list duly taking into account the number of reviews obtained by each one of them in the Miscellaneous Group and scale of pay/pay



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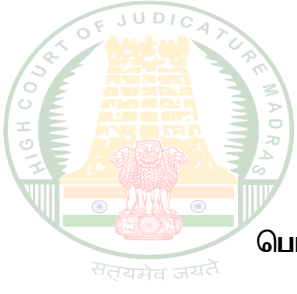
band/Grade pay for considering them for promotion to the post of Superintendent.

*(ii)Allowing such of those employees who have received 3 review benefits possessing a degree qualification coming under Miscellaneous Group for exercising 'one time irrevocable option' for migration to Working Group subject to placing their name at the lowest level of existing seniority maintained for that category of employees of the Working Group [for which scale of pay/Grade pay shall be taken as the yardstick] at the time of exercising option by providing **one month's time after issuance of Government orders** and also with a condition that they must forego their original seniority in the Miscellaneous Group.”*

7. It was further to be noted that in the said proceedings issued on 24.02.2011 pursuant to the 12(3) settlement, the following decision also has been agreed upon.

“ 4.அலுவலக பிரிவு

அலுவலகப் பிரிவில் பதவிகளின் பெயர்கள் கழகத்திற்கு கழகம் ஒவ்வொரு விதமாக உள்ளதை சீரமைத்து அவரவர் கல்வி தகுதியின் அடிப்படையில் ஒரே மாதிரி இருக்கும்படி நிர்ணயம் செய்திட வேண்டும். இனி வருங்காலத்திலும் இதே நடைமுறையை கடைப்பிடித்திடவும் மேலும் போதிய கல்வி தகுதி இருந்தும் முன்று ஆய்வு பலன்களைப் பெற்றிருந்தும் இதர பிரிவில் உள்ளவர்களுக்கு (Miscellaneous Group) கண்காணிப்பாளர் பதவி உயர்வு வழங்கும்



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பொருட்டு தகுதி மற்றும் பணிக்கால முதிர்ச்சி அடிப்படையில் பதவி

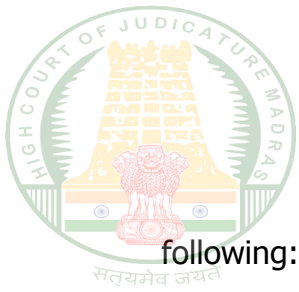
உயர்வு வழங்க அரசின் முடிவின்படி ஏற்றுக்கொள்ளப்பட்டது.”

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8. Therefore, it was the decision taken by the employer, who entered into a settlement with the employees to give such a benefit of promotion even to the post of Superintendent from the eligible persons from Miscellaneous Group having the qualification of three reviews with degree qualification. Such a decision would be implemented after getting concurrence from the Government.

9. Now, the Government has come forward and issued G.O.Ms.No.79, Transport (C1) Department dated 30.06.2015, which we extracted supra, where the aforesaid Scheme has been framed under which employees on permanent basis in the Miscellaneous Group and those already received three review benefits and also holding the qualification of degree will be given an one time irrevocable option, by which he can migrate from Miscellaneous Group to Working Group. Once he comes to the Working Group, he shall be placed as the last person in seniority and based on the *inter se* seniority in the Working Group, whenever his turn comes in the Working Group he shall be considered for promotion.

10. Here in the case in hand, it is the case of the respondent/writ petitioner that he had already earned four review benefits. The first review benefit was in the year 1995, thereafter in the year 2003, 2010 and finally in 2016. To that extent, the respondent/writ petitioner in fact has filed an affidavit, where he has stated the



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following:

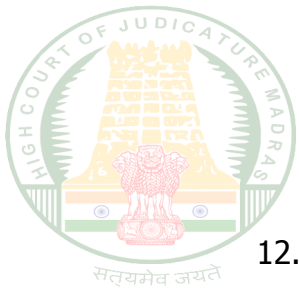
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“ 5. I submit that I am qualified for promotion to the post of Superintendent since I have received four review benefits and possessing degree qualification, inasmuch as, three review benefits with degree qualification are eligibility conditions for promotion to the post of Superintendent. I have also stated my eligibility in the affidavit filed in support of the Writ Petition.

6. I submit that the fact remains that I am not communicated with any order / proceedings for having secured four review benefits availed by me but the same are duly entered in my Service Register (SR). Since I am not having the copy of my SR, I am not able to produce the same before this Hon'ble Court.

7. I submit that even in the counter affidavit filed by the appellant / respondent in the Writ Petition, the eligibility condition of availing four review benefits was not disputed.”

11. This factor of conferring the four review benefits on the writ petitioner also cannot be disputed, as it has been recorded in the service register of the employee concerned. That apart, the writ petitioner also is a degree holder, where he secured the UG degree in the year 1992. Therefore, it is the case of the writ petitioner that, he being a permanent employee of the Miscellaneous Group and has already got four review benefits and he is a degree holder. Therefore, in all respects he becomes eligible to exercise his one time irrevocable option as per G.O.Ms.No.79 dated 30.06.2015.



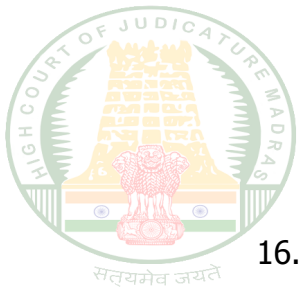
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12. The learned Writ Court has considered the said plea made by the writ petitioner and the counter arguments advanced on behalf of the respondents therein, who are the appellants herein.

13. It was the contention of the employer before the Writ Court that, the writ petitioner was neither in the Working Group nor in the Miscellaneous Group. Instead, since he was a Store Keeper he had been kept under a separate group called Contingent Group.

14. This argument advanced by the employer before the writ Court was rejected by the learned Judge, as there has been no such group called Contingency Group and there were only two groups viz., Working Group and Miscellaneous Group. Therefore, if at all a permanent employee does not belong to Working Group, he can certainly be regarded as a member of the Miscellaneous Group.

15. Moreover, the learned Judge has found factually that, the writ petitioner not only had been working as a Store Keeper even though he was initially appointed so, subsequently he had been transferred to work in the Disciplinary Action Section and further has been posted to P.R.O.Section. This factor has been recorded in the writ petition in Para 13 of the impugned order.



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16. Therefore, in all fairness, the respondent/writ petitioner has to be treated as a member of Miscellaneous Group and eligible to exercise his one time irrevocable option to migrate to the Working Group under the benefit of Para 10 of G.O.Ms.No.79 dated 30.06.2015. Accordingly, the learned Judge has accepted the plea of the respondent/writ petitioner and allowed the writ petition by giving a direction to the employer / appellants to treat the respondent/writ petitioner as a member of the Working Group and by considering his seniority, he shall be given promotion to the post of Superintendent or whatever post for which he is eligible or entitled. That is the order which has been passed by the writ Court, as against which this intra Court appeal has been preferred.

17. We have heard the arguments advanced by Mr.R.Ramanlal, learned Additional Advocate General for the appellants.

18. After having gone through the factual matrix, we have found that insofar as the writ petitioner/respondent is concerned, admittedly he has earned four review benefits as stated supra and also since he is a degree holder, even though it was contended by the learned Additional Advocate General that the degree secured by him is from Open University system, the degree which was obtained by him in the year 1992 cannot be nullified at this length of time, as the law with regard to the fate of the Open University System UG degrees and PG degrees are concerned, it came only at a later point of time. Therefore, when the respondent/writ petitioner



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entered into service and had already secured such degree, which is prior to the law having been declared in this regard, cannot be put against such degree holder and therefore in all fairness, it shall be treated that the respondent/writ petitioner is having the degree qualification and also since he has earned more than three review benefits and as of now he has totally four review benefits, he is very much entitled to exercise his one time irrevocable option to switch over from Miscellaneous Group to Working Group.

19. When that being so, denial of such a chance to switch over to the Working Group to the respondent/writ petitioner by the appellant employer cannot be accepted and therefore, to that extent the reasoning given as well as the conclusion reached by the learned Judge has to be accepted.

19. Moreover, once he has exercised his option and becomes the member of the Working Group, as he would be the last person in the seniority in the Working Group, accordingly his *inter se* seniority shall be calculated or fixed and based on which, if he comes within the zone of consideration based on the 2:1 ratio, if he becomes eligible to be considered for promotion to the next higher category viz., Superintendent, such a promotional avenue also cannot be denied to the writ petitioner.

20. In that view of the matter, we are inclined to dispose of this writ appeal



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with the following order:

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(a) That the order impugned dated 20.07.2023 made in W.P.No.19437 of 2017 is to be sustained and accordingly it is sustained.

(b) As a sequel, there shall be a direction to the appellants to permit the respondent/writ petitioner to exercise his one time irrevocable option to switch over from Miscellaneous Group to Working Group.

(c) After having switched over, his seniority shall be fixed as per G.O.Ms.No.79 dated 30.06.2015. Based on such *inter-se* seniority, he shall be considered for promotion by adopting 2:1 ratio to the next higher grade viz., Superintendent, provided he comes within the zone of consideration.

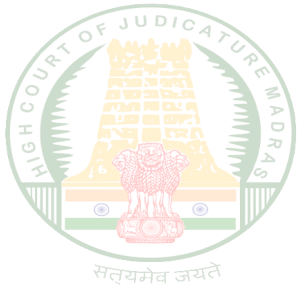
(d) The needful as indicated above shall be complied with by the appellants within a period of three months from the date of receipt of a copy of this order.

21. With the above directions, the Writ Appeal is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

(R.SURESH KUMAR J.) (C.SARAVANAN J.)
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Index : Yes/No
NCS : Yes/No
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AND
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