

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31567 of 2015

G.Kumar

...Petitioner

Vs.

1 The Government of Tamil Nadu
Rep by its Secretary
Transport Department
Fort St. George
Chennai - 600 002

2 The Management of Metropolitan
Transport Corporation Chennai Ltd
Palavan House Palavan Salai
Chennai - 600 002.

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondent to fix the date of appointment of the petitioner notionally from the date of initial appointment or at least on par with the co-workers Venkatapathy Prabakara Rao, Dhananchezhian and Natarajan (Staff. No 50872, 50862, 50804, 50712) and consequently count the total service to grant notional fixation of pay seniority length of service for pension and other benefits.

For Petitioner : Ms.D.Nagasaila

For Respondents : Mr.S.Gunasekaran for R1
Government Advocate
Mr.P.Kannan Kumar for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner was employed as Conductor in the services of the respondent Corporation and was retrenched from service during July 1996 in violation of the relevant provisions of the Industrial Disputes Act, 1947 and initially 27 retrenched Drivers and Conductors have filed writ petitions and obtained interim orders restraining the respondents from terminating their services and by virtue of the interim order, they continued in service and ultimately all the writ petitions were allowed by a common order dated 12.12.1996. The official respondents aggrieved by the same filed W.A.Nos.143 and 144 of 1997 and the said appeals had ended in dismissal and in spite of it, the petitioners therein have not been given employment.

3.It is further stated that the respondents instead of complying with the orders passed by this Court had issued G.O.Ms.No.57, dated 21.07.2005 calling for names from the Employment Exchange to recruit fresh hands and it was put to challenge in W.P.No.36232 of 2005 and batch and the writ petitions were allowed and the Government Order was set aside and this Court has directed the petitioners and other persons similarly placed have to be given employment. The petitioner, though raised an Industrial Dispute in I.D.No.13 of 2001 has withdrawn the said I.D.

4.It is also stated by the petitioner that in W.P.No.30281 of 2005, the order of retrenchment was challenged and this Court have given direction directing the second respondent Corporation to consider the claim of the petitioner as per the directions of the Hon'ble Division Bench order and though some of the workers were given employment on 24.02.2007, the petitioner was given appointment only on 26.02.2007 and was confirmed in service on 01.11.2008.

5.The grievance expressed by the petitioner is that though he is similarly placed like that of the Conductors namely, Venkatapathy Prabakara Rao, Dhananchezhian and Natarajan who were part of the batch of 27 workers who got interim orders, the respondents have picked and choosed for the purpose of implementing the interim order and in this regard had also submitted representation dated 26.03.2014 to the second respondent and since no orders have been passed, came forward to

file this writ petition.

6.The learned counsel appearing for the petitioner would submit that this Court vide order dated 12.08.2015 made in W.P.No.24581 of 2015 has directed the second respondent to consider the grievance of four petitioners therein who was similarly placed and pass orders within a stipulated time and prays for appropriate orders.

7.Heard the submissions of Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the first respondent and Mr.P.Kannan Kumar, learned counsel who accepts notice on behalf of the second respondent.

8.Though the petitioner prayed for the larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the second respondent to consider and dispose of the petitioner's representation dated 26.03.2014 on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Secretary
Government of Tamil Nadu
Transport Department
Fort St. George
Chennai - 600 002

2 The Management of Metropolitan
Transport Corporation Chennai Ltd
Palavan House Palavan Salai
Chennai - 600 002.

1 CC to the Government Pleader, SR.No. 54760

W.P.No.31567 of 2015

KGK (CO)
PSI (16.10.2015)



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