

In the High Court of Judicature at Madras

Dated: 09.10.2015

Coram

The Honourable Mr.JUSTICE M.SATHYANARAYANAN

Writ Petition No.32115 of 2015

M.Lakshmikanth Kalathy

.... Petitioner

Vs.

1. The Secretary to Government,
Home (Transport IV) Department,
Fort St. George, Chennai - 9.

2. The Commissioner of Transport
'Ezhilagam', Chepauk,
Chennai - 5.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus directing the respondents to grant relaxation of norms prescribed in Annexure IV Rule 30(b) of Special Rules for T.N.Ministerial Service in favour of the petitioner and further direct the respondents to include the name of the petitioner in the panel of Assistant fit for promotion as Superintendent for the year 2014-15 at par with his juniors published in G.O.(MS) No.766, Home (Tr.IV) Department dated 13.10.2014 and promote him as Superintendent within a reasonable time in the light of the representation made by the petitioner dated 05.12.2014 and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkataramani, S.C.
for Mr.M.Muthappan

For Respondents : Mr.V.Subbiah, Spl.G.P.

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The father of the petitioner, while serving as Superintendent in the Transport Department, died in harness in the year 2005. The petitioner was appointed on compassionate ground as Junior Assistant in the same department on 11.02.2008. The services of the petitioner were regularized, vide orders of the Government dated 09.05.2011.

The petitioner was also deputed to undergo Civil Service Training Institute at Bhavanisagar between 13.09.2011 and 11.11.2011 and he has successfully completed his training. After a long delay, his probation was also successfully declared by relaxing the Rules with effect from 10.7.2013 and he also got his promotion as Assistant-cum-Accountant on 03.03.2014. He claims that he is putting blemishless service to the satisfaction of his superiors.

3. The petitioner further stated that even though he was appointed as early as in the year 2008, his services were regularized after more than 3 years only on 09.05.2011. Consequently, he was belatedly sent for Civil Service Training Institute at Bhavanisagar and he has also successfully completed the same. In the interregnum, the juniors of the petitioners were given promotion as Assistants by including their name in the panel fit for promotion for the year 2012-2013. The petitioner, in this regard, had submitted a representation to the second respondent dated 24.07.2013 for inclusion of his name in the panel of fully qualified Junior Assistants fit for promotion to the post of Assistants for the year 2012-2013. His claim was considered and his name was also ordered to be included in the said panel for the year 2012-2013, by placing him between R.Velayutham in Sl.No.10 and K.Srinivasan in Sl.No.11 by assigning Sl.No.10A to the petitioner. Subsequently, the panel for promotion to the post of Superintendent in the year 2014-2015 was prepared with the crucial date as 15.3.2014. The petitioner claims that his name was dropped and according to the petitioner, the following norms have to be fulfilled for promotion to the post of Superintendent:

- "a) 1 year of service as Accountant in any one of the RTOs in the Transport Department
- b) 2 years of service in the State Transport Authority/State Transport Appellate Tribunal/O/o Deputy Transport Commissioner/Joint Transport Commissioner/Assistant Accounts Officer."

4. Since the Government found that some of the Assistants have not complied with the norms due to administrative reasons, the second respondent made a recommendation for relaxing the same and the Government has also favourably considered the said request vide G.O.No.766 Home (Transport IV) Department dated 13.10.2014 by relaxing the norms in respect of 31 Assistants, which includes the junior of the petitioner, namely K.Srinivasan, who is in Sl.No.23. However, the petitioner, on account of the above said reasons was not able to fulfill the above said norms though he is similarly placed like that of the petitioner's junior, his name has been omitted and consequently, his name has not been included in the panel for the promotion to the post of Superintendent. The petitioner, in this regard, has submitted a representation dated 05.12.2014 to the second respondent followed by a reminder dated 06.05.2015 and since no orders have been passed, the petitioner came forward to file this Writ Petition.

5. Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner would submit that in all fairness the name of the petitioner should have been included in the panel for promotion to the post of Superintendent, however, it has not been done so for the reasons best known to the respondents. Insofar as relaxation is concerned, positive recommendations have also been made and in spite of it, the petitioner's name has not been included. The above facts were also brought to the knowledge of the second respondent in the form of representation submitted by the petitioner and his grievance is yet to be addressed. Therefore, he is constrained to file this Writ Petition.

6. This Court heard the submissions of Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of respondents 1 and 2.

7. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances, directs the second respondent to consider the representation of the petitioner dated 05.12.2014 and the reminder dated 06.05.2015 and pass orders on merits and in accordance with law within a period of six 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/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Government,
Home (Transport IV) Department,
Fort St. George, Chennai - 9.

2. The Commissioner of Transport
'Ezhilagam', Chepauk,
Chennai - 5.

+1 cc to M.M.Muthappan, Advocate, sr.55532

+1 cc to Government Pleader, sr.55611

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