

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.06.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.20256 of 2016

R.Sakthivel

.. Petitioner

vs

1. The Principal Secretary to Government
Home (Tr.II) Department
Secretariat, Chennai 600 009.

2. The Transport Commissioner
Chepauk, Chennai 600 005.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first respondent herein to include the petitioner's name in G.O.(3D) No.74, Home (Tr.II) Department dated 19.12.2013 in the appropriate place with due seniority and to consequently direct the first respondent to promote the petitioner as Regional Transport Officer with effect from 19.12.2013, the date of promotion of immediate junior with all consequential service and monetary benefits in the light of G.O.Ms.No.368, P & AR Department dated 18.10.1993.

For Petitioner : Mr.Ravi Shanmugam

For Respondents: Mrs.M.E.Raniselvam
Additional Government Pleader

ORDER

By consent, the writ petition is taken up and disposed of at the admission stage itself.

2. Mrs.M.E.Raniselvam, the learned Additional Government Pleader takes notice on behalf of the respondents.

3. The prayer in the writ petition is for the issuance of writ of mandamus to direct the first respondent herein to include the petitioner's name in G.O.(3D) No.74, Home (Tr.II) Department dated 19.12.2013 in the appropriate place with due seniority and to consequently direct the first respondent to promote the petitioner as Regional Transport Officer with effect

from 19.12.2013, the date of promotion of his immediate junior with all consequential service and monetary benefits in the light of G.O.Ms.No.368, P & AR Department dated 18.10.1993.

4. The case of the petitioner is that, while he was working as a Motor Vehicle Inspector Grade I, based on certain allegations, disciplinary proceedings were initiated as against the petitioner along with other staffs and a charge memo was issued in TDP Case No.15 of 2012. Therefore, when the seniority list was prepared for promotion to the post of Regional Transport Officers for the year 2012-2013, his name was not considered. However, his juniors names were included in the said panel and were given promotion. It is the further contention of the petitioner that the first respondent herein, thereafter, accepting the findings of the Enquiry Officer had dropped all further action against the petitioner and issued G.O.(2D)No.137, Home (Tr-II) Department dated 02.03.2016. Therefore, the petitioner submitted representations dated 21.03.2016, followed by reminder dated 11.04.2016 to the respondents seeking to include the petitioner's name in the appropriate place in the panel prepared for promotion to the post of Regional Transport Officer during the year 2012-13. Since the same was not considered till date, the petitioner is before this Court.

5. Learned counsel appearing for the petitioner by relying upon G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993 would submit that the Government has very clearly stated that in case of pending enquiries including vigilance enquiries, if the persons who have earlier been specifically charge sheeted in any criminal case, their cases may be deferred for consideration of promotion/appointment till the proceedings initiated against them are concluded. He would also submit that it has further stated that, however, their case may be considered for promotion, if they have been exonerated or acquitted from the charges and that if they are found suitable, they shall be given due promotion with retrospective effect from the date on which, their juniors were promoted. In view of the above Government Order, the learned counsel for the petitioner would submit that since the charges framed against the petitioner has been dropped by the first respondent, he is eligible for promotion to the post of Regional Transport Officer with retrospective effect from the date on which his juniors were promoted. Accordingly, he would submit that the respondents may be directed to consider the representation of the petitioner in this regard and pass appropriate orders on the same within a stipulated time.

6. Learned Additional Government Pleader appearing on behalf of the respondents would submit that the respondents will consider the representation of the petitioner, dated 21.03.2016

followed by his reminder dated 11.04.2016, and pass orders, on merits and in accordance with law in the light of G.O.Ms.No.368, P& AR Department.

7. Considering the facts and circumstances of the case and also taking into account the fact that the charges framed against the petitioner has been dropped, the first respondent is directed to consider the representations submitted by the petitioner dated 21.03.2016 followed by reminder dated 11.04.2016, in the light of G.O.Ms.No.368, P & AR Department dated 18.10.1993 and pass appropriate orders on the same on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home (Tr.II) Department,
Secretariat, Chennai 600 009.
2. The Transport Commissioner,
Chepauk, Chennai 600 005.

+lcc to Mr.Ravishanmugam, Advocate sr.33211
+lcc to the Government Pleader sr.33309

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srg 28/06/2016