

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 40132 of 2015
and
M.P.No. 2 of 2015

M. Lakshmikanth Kalathi

.. Petitioner

-Versus-

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

2. The Commissioner of Transport
Ezhilagam, Chepauk
Chennai - 600 005.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for issuing a Writ of Certiorarified Mandamus calling for the records of the second respondent in connection with the impugned order passed by him in Proc.R.No.52528/R3/2015 (E.No.306/2015) dated 02.12.2015 and quash the same and direct the respondents to relax the service qualification prescribed in rule 30 (b), Annexure IV of the Special Rules on Tamil Nadu Ministerial Service Rules as amended in GO Ms. No.572, Home (Transport IV) Department dated 01.06.2000 in favour of the Petitioner and further direct the respondents to include the name of the petitioner in the panel of the Assistant fit for promotion as Superintendent for the year 2014-2015 at par with his juniors published in GO Ms. No.766, Home (Transport IV) Department dated 13.10.2014 and promote him as Superintendent and grant him all consequential service and monetary benefits on par with his juniors within a reasonable time.

For Petitioners : Mr. M. Muthappan

For Respondents : Mr. S. Gunasekaran

Additional Government Pleader

ORDER

I heard the counsel for both sides and perused the materials placed on record. Today when the writ petition is taken up for hearing, the learned Additional Government Pleader appearing for the respondents vehemently opposed the writ petition by stating that the petitioner has hastily approached this Court when a proposal has already been sent by the second respondent to the Government for relaxing the service

qualification in favour of the petitioner. In this context, the learned Additional Government Pleader has taken me to the averments in the counter affidavit which are extracted hereunder:-

"6.His claim in para-6 of the affidavit is correct and he having now come into Norms, a proposal on relaxation has already considered to be sent to Government for obtaining necessary orders. Once this processes are carried out, his original seniority will be restored.

10. (III) The only thing emphasized is that, the Administration may not go for relaxation on piecemeal terms, on each and every cases. The petitioner was already given an assurance to the effect that, in the sending of relaxation proposal in future, utmost care would be taken to ensure the seniority position of the individual was not affected. This order was issued on 02.12.2015. Again in the file in R.No.41153/R3/2015 dated 14.01.2016, the administration has already contemplated a decision, to go in for relaxation. The petitioner's name figures, at the top of the seniority list. Such being the position, the individual not even ready to wait for 10 days, has already filed a writ, on 12.12.2015. It indeed establishes that the petitioner is already prepared to go against the administration.

IV.It is submitted that the petitioner was not denied with his due benefits, as averred by him in this para. The fact is that, his request for relaxation and consequent promotion will be given effect, as per the need of the administration and at the same time giving an assurance to the individual that his seniority position will be ensured, to be not, affected. The administration now, having decided to go on for relaxation, there exists every likelihood that, the individual may get his chance for promotion as Superintendent in the ensuing month itself.

2. The learned counsel appearing for the petitioner would contend that the grievance of the petitioner is that even though it was stated in the counter affidavit filed on 07.04.2016 that the petitioner will get his chance for promotion as Superintendent within a month, till date, he has not been conferred with any promotion.

3. In any event, when it is categorically asserted in the counter affidavit filed by the second respondent that his claim for promotion will be favourably considered, this Court is of the view that no further orders are necessary in this writ petition. It is needless to mention that the second respondent shall adhered to his own stand taken in the counter affidavit

filed before this Court on 07.04.2016 and to consider the claim of the petitioner for promotion at the earliest.

4. In the result, by recording the averments made in the counter affidavit of the second respondent, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

rsh

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government
Home (Transport-IV) Department
Fort St. George, Chennai - 9.
 2. The Commissioner of Transport
Ezhilagam, Chepauk
Chennai - 600 005.
- + 1 cc to Mr.M.Muthappan, Advocate Sr 33896
+ 1 cc to The Govt.Pleader, Sr 33729

KR/28/7/16

WP.No.40132 of 2015

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