

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No. 28777 of 2016

M.Rajendran

..Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by the Secretary of Government
Transport Department
Fort St.George
Chennai-600 009.

2.The Director
Tamil Nadu Motor Vehicles Maintenance Department
Chennai-600 042.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to grant promotions to the petitioner as Mechanic-II, Chargeman and Time Keeper, which were withheld on account of the pendency of the disciplinary proceedings and the punishment imposed therein which was subsequently cancelled by the second respondent in Proc.No.A1/15609/09, dated 11.08.2011 following the orders passed in W.P.No.37500 of 2006, dated 30.09.2009 and grant him all consequential benefits.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mr.Dig Vijaya Pandian
Additional Government Pleader

ORDER

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents to grant promotions to the petitioner as Mechanic-II, Chargeman and Timekeeper, which were withheld on account of the pendency of the disciplinary proceedings and the punishment imposed therein which was subsequently cancelled by the second respondent in Proc.No.A1/15609/09, dated 11.08.2011, following the orders passed in W.P.No.37500 of 2006, dated 30.09.2009, and grant him all consequential benefits.

2. The grievance of the petitioner is that he was not given promotion to the post of Mechanic-II in the year 1992, though, his name was included in the panel for promotion to the post of Mechanic-II for 1992-1993, because of the pendency of the disciplinary action initiated against him on 24.12.1991. In the disciplinary action, a punishment of stoppage of increment for two years with cumulative effect was imposed. On appeal, the Government modified the punishment as stoppage of increment for one year with cumulative effect. Challenging the said

punishment, the petitioner filed O.A.No.1721 of 1998 before the Tamil Nadu Administrative Tribunal. Consequent on the abolition of the Tribunal, the said case was transferred to this Court and re-numbered as W.P.No.37500 of 2006 and the said Writ Petition was allowed on 30.09.2009. The 2nd respondent cancelled the punishment as per the orders passed in the said Writ Petition. Thereafter, the petitioner made a representation to the 2nd respondent, on 25.05.2012, requesting for promotion, which was withheld because of the pendency of the disciplinary proceedings. As there was no response, he made another representation on 07.08.2013. Subsequently, he was promoted as Mechanic-II only in 1997, whereas, according to the petitioner, he should have been promoted as Mechanic-II in 1992 itself when his juniors M.Jeyakumar, M.Krishnan, R.Periyasamy and N.Marimuthu were promoted and subsequent promotions should have been ordered on par with his juniors, but, till date, no order has been passed on his representation. Hence, the present Writ Petition has been filed seeking the relief stated supra.

3. Mr.P.Mohanraj, the learned counsel for the petitioner

would submit that the petitioner has retired from service on 31.01.2014, therefore, he only seeks for promotion to the next higher post, in view of the cancellation of punishment, with effect from the date on which his juniors were promoted. In this regard, he has made a representation on 07.08.2013, but, the same was not considered so far. The learned counsel would further add that the petitioner would be satisfied, if the 2nd respondent is directed to consider and dispose of the representation of the petitioner, dated 07.08.2013.

4. Mr.M.Dig Vijaya Pandian, the learned Additional Government Pleader, who took notice on behalf of the respondents, has got no serious objection in directing the 2nd respondent to consider the representation of the petitioner and to pass appropriate orders, on merits and in accordance with law.

5. Considering the fact that the petitioner has restricted the relief sought for in the Writ Petition, this Court, without going into the merits of the claim made by the petitioner, directs the 2nd respondent to consider the representation of the petitioner,

dated 07.08.2013, and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

6. The Writ Petition is disposed of accordingly. There shall be no order as to costs.

18.08.2016

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To

1.The Secretary to Government
Government of Tamil Nadu
Transport Department
Fort St.George
Chennai-600 009.

2.The Director
Tamil Nadu Motor Vehicles Maintenance
Department
Chennai-600 042.

B.RAJENDRAN,J

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