



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.11.2016

C O R A M:

THE HONOURABLE DR.JUSTICE **S.VIMALA**

Writ Petition (MD) No.22317 of 2016

D.Shanmugam

.. Petitioner

Vs.

1.The Managing director,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Bye-pass Road, Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Dindigul Region, Bye pass Road,
Dindigul.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ or order or direction more particularly in the nature of writ of mandamus directing the respondents to extend the 4th review benefits to the petitioner based on settlement, dated 13.04.2015, entered into under Section 12(3) of industrial disputes act and to enhance / revise the petitioner's salary, with effect from November 2015, by issuing revised pay fixation to his post of senior grade assistant without citing currency of punishment in view of the order of the 2nd respondent dated 30.09.2015, in Ref.Sa.Thu: L2:1987.

For Petitioner ... Mr.J.Lawrence

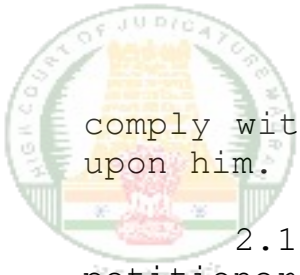
For Respondents ... Mr.A.Jayaram

O R D E R

This writ petition has been filed seeking increment, review benefits and promotion.

2.The background facts:

The petitioner was appointed as Junior Assistant in the year 1987. Thereafter, his services were regularised and he was working as Senior Grade Assistant. While working in Dindigul Region, the petitioner was served with show cause notice and consequent charge memo on the ground that the petitioner did not



comply with the work allocation order, which was belatedly served upon him.

2.1.As against the issuance of show cause notice, the petitioner approached the Assistant Commissioner of Labour, Dindigul, and filed petition under Section 12(3) of the Industrial Disputes Act, 1947.

2.2.In the meantime, the second respondent has issued order awaiting the punishment of stoppage of increment for a period of one year with cumulative effect, by proceedings dated 17.05.2014. This order was issued during the pendency of enquiry before the competent appellate forum viz., the Assistant Commissioner of Labour.

3. The Assistant Commissioner of Labour, held that during pendency of the Industrial Dispute under Section 32 of the Act, the issuance of the order by the first respondent confirming the imposition of punishment is illegal and therefore, the order of punishment was cancelled. The order of Assistant Commissioner, Labour was passed on 14.07.2014.

3.1. Thereafter, the second respondent has chosen to drop the punishment of stoppage of annual increment for a period of one year with cumulative effect. Therefore, as on date, there is no currency of punishment.

4.The learned counsel for the petitioner would submit that as there is no currency of punishment, the claim of the petitioner for review of benefits, promotion and other benefits, has to be granted to the petitioner.

5.The contention of the learned counsel for the petitioner is that the second respondent has sanctioned the increment, but not the review benefits, as per 12(3) settlement. The representation has been submitted to the first respondent on 06.09.2016, which is followed by the representation dated 23.09.2016. The petitioner has specially requested for enhancement or revision in his salary with effect from November, 2015 by sanctioning revised pay fixation to the post of Senior Grade Assistant, as on date. But the second respondent has not chosen to consider the claim.

6.Hence, the writ petition has been filed seeking direction to the respondents to extend the fourth review benefit to the petitioner based on the settlement, dated 13.04.2015.

7. When there is no currency of punishment, it is the duty and responsibility of the respondents to have considered the request of the petitioner, which is submitted in the representations, dated 06.09.2016 and 23.09.2016.



8. In the light of facts stated above, the respondents are directed to consider the representations of the petitioner and to grant all the consequential benefits, as per the eligibility, within a period of four weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Managing director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye-pass Road,
Madurai.

2. The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Dindigul Region, Bye pass Road,
Dindigul.

+1 cc to M/S.J.LAWRANCE, Advocate SR.No.73800

W.P. (MD) No.22317 of 2016
28.11.2016

SMA/SV-MMS/SAR-2/14.02.2017:3P/4C