

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2017

CORAM

The Hon'ble Mr. Justice M. Sathyanarayanan

W.P.No.4369 of 2017
and
W.M.P.No.4562 of 2017

S.Ravindran

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat, Chennai - 600 009.
2. The Managing Director,
Tamil Nadu State Transport Corporation (CBE) Ltd.
Head Office, No.37, Mettupalayam Road,
Coimbatore - 641 043.
3. The General Manager,
Tamil Nadu State Transport Corporation (CBE) Ltd.
Head Office, No.37, Mettupalayam Road,
Coimbatore - 641 043.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorarified Mandamus to call for records on the file of the second respondent with regard to the orders passed in Ref No.1/G11//G3/1325/2001/TNSTC/2002, dated 27.09.2002 and to quash the same and to direct the respondent to restore the basic pay of the petitioner to the original position before passing the impugned orders dated 27.09.2002, and to grant to pay all the annual increments and to pay the retirement benefits and the pension based on the restored basic pay along with a interest of 12% from 27.09.2002.

For Petitioner : Mr.V.S.Jagadeesan

For Respondent-1 : Mr.K.Dhananjayan
Special Government Pleader

For Respondents
2 and 3 : Mr.P.Kannan Kumar
Standing Counsel

O R D E R

By consent, the Writ Petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader, accepts notice on behalf of the first respondent and Mr.P.Kannan Kumar, learned Standing Counsel, accepts notice on behalf of respondents 2 and 3.

2. The petitioner would aver that he was selected and appointed as Conductor, in the service of the erstwhile Cheran Transport Corporation, in Coimbatore. His services were regularized, and he got his promotion to the post of Special Grade Conductor, and was allotted Staff No.82CR1009387. The said Corporation, after amalgamation and merger, became Tamil Nadu State Transport Corporation and the services of the petitioner got absorbed there. The petitioner, while he was in service, visited with a disciplinary proceedings, in the form of a charge memo, dated 27.02.2001, and it culminated in the order of punishment passed by the third respondent, dated 22.12.2001, by which, the petitioner's basic pay was reduced to Rs.3260 from Rs.4850/- Aggrieved over the same, the petitioner filed an Appeal before the second respondent, and the second respondent, by order, dated 27.09.2002, confirmed the order passed by the third respondent, however, increased the basic pay from Rs.3260 to Rs.4060/-, and accordingly, fixed the time scale and treated the period of suspension as leave. The petitioner on attaining his age of superannuation on 31.12.2015, was permitted to retire from service as Conductor. Thereafter, he submitted a Mercy Petition, dated 28.08.2015, followed by reminder, dated 04.01.2016 to the second respondent, praying for reviewing the order of punishment, and since these representations have not yet been disposed of, he has come forward to file this Writ Petition.

3. Mr.V.S.Jagadeesan, the learned counsel appearing for the petitioner has drawn the attention of this Court to annexure- V of the Tamil Nadu State Transport Corporation Civil Services (Discipline and Appeal) Rules, and would submit that, as per Rule 14 (2), when an employee is reduced to a lower post, or grade, or lower time scale, or to a lower stage in his time scale, the Authority ordering such reduction shall state whether it will be permanent, or whether it will be effective for a specified period only. In the latter case, the Authority should state whether on restoration, it shall so operate as to postpone future increments, or to affect his seniority, and if so, to what extent, and as per the Note appended to the said Rule, reduction to a lower stage in a time scale is not permissible either for any un-specified period or as a permanent measure.

4. It is the submission of the learned counsel for the petitioner that, in the light of the note appended to Rule 14 of the Discipline and Appeal Rules of the respondent-Corporation, reduction to a lower grade in a time scale cannot be permanent.

5. Per contra, Mr.P.Kannan Kumar, learned Standing Counsel, for respondents 2 and 3 on instructions would submit that, admittedly, the petitioner has exhausted the Appeal remedy before the second respondent, and though some relief was granted to the petitioner by the second respondent, vide the impugned order as early as on 27.09.2002, it was not put to challenge by the petitioner for nearly 14 years, and belatedly the petitioner chose to make a challenge to the said order, and therefore, the claim of the petitioner is hit by delay and laches, and prays for dismissal of the Writ Petition.

6. This Court considered the rival submission and also perused the materials placed before it.

7. A perusal of the Note appended to Rule 14 (2) of the afore said Rules, would prima facie indicate that the reduction to the lower grade in a time scale is not permissible either for any unspecified period or as a permanent measure, whereas, the impugned order would prima facie indicates the reduction to the lower stage in a time scale as a permanent one.

8. Be that as it may, though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioner, either in the representations or in this Writ Petition, directs the second respondent to consider and dispose of the petitioner's mercy petition/representation, dated 28.08.2015 as well as 04.01.2016 on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order, and communicate the decision taken to the petitioner.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sd

To

1. The State of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat, Chennai - 600 009.
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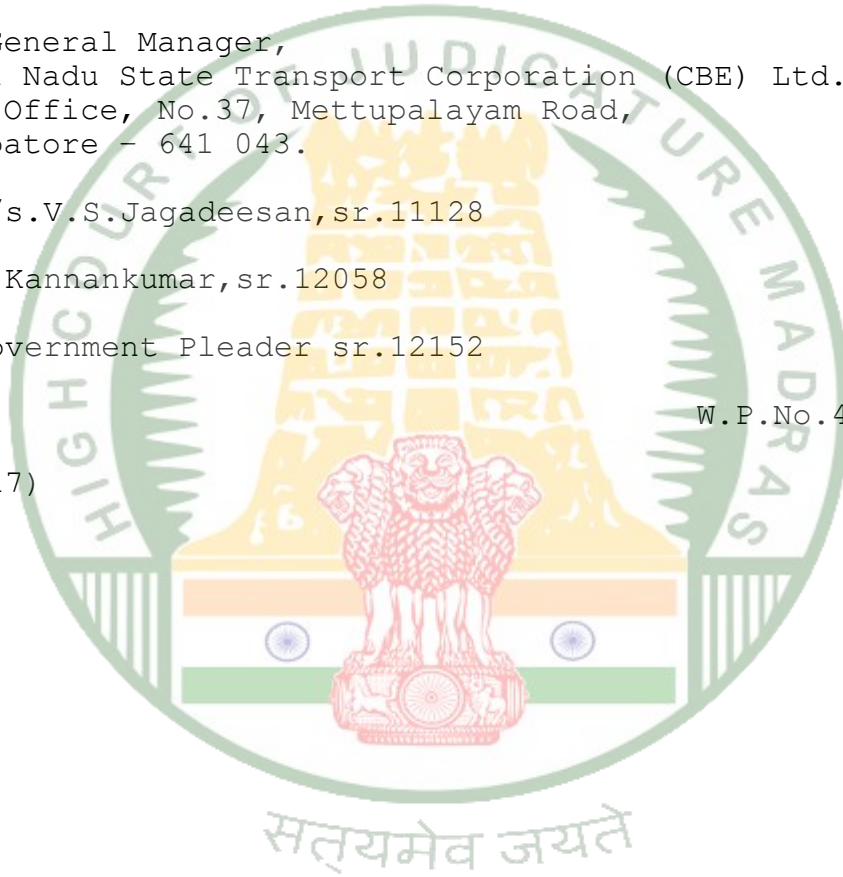
+1cc to M/s.V.S.Jagadeesan,sr.11128

+1cc to P.Kannankumar,sr.12058

+1cc to Government Pleader sr.12152

W.P.No.4369 of 2017

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