



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.83 of 2017
and W.M.P.(MD).No.761 of 2017

- 1.The Managing Director,
Tamil Nadu State Transport Corporation,
[Tirunelveli] Limited,Kattabomman Nagar, Tirunelveli.
 - 2.The General Manager,
Tamil Nadu State Transport Corporation,
[Tirunelveli] Limited, Tirunelveli Region,
Vannarpettai, Tirunelveli. : Appellants
- Vs.

- 1.M.Kannan,
Special Grade Assistant [Legal Section],
TNSTC, Tirunelveli Region,
1266G, Arunachalapuram,
C-Colony, KTC Nagar, VM.Chatram, Tirunelveli.
- 2.The Principal Secretary to Government,
Transport Department, Secretariat,
Chennai 600 009
- 3.The Financial Advisor/Chief Account Officer,
Tamilnadu State Transport Corporation,
(Tirunelveli) Limited, Kattabomman Nagar, Tirunelveli.
- 4.The Deputy Manager, HRD,
Tamilnadu State Transport Corporation,
(Tirunelveli) Limited, Kattabomman Nagar, Tirunelveli.
: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 29.11.2016 made in W.P.(MD).No.22744 of 2016, on the file of this Court.

Prayer in WP(MD). 22744/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent to re-designate the petitioner as Junior Assistant retrospectively from the date on which the petitioner obtained the Degree Qualification in the same manner



the posts of the persons who were appointed along with the petitioner as Record Clerks were re-designated as Junior Assistant from the date of their acquiring degree in the light of the orders of this Honourable Court in WP(MD) No. 11076 of 2014, 11476 of 2014 and 4479 of 2015 by order dated 12.10.2016 which was complied by the orders of the 2nd respondent dated 02.01.2016.

For Appellant : Mr.A.Jeyaram
For Respondent No.1 : Mr.M.Govindan
For Mr.S.Sivanesan

JUDGMENT

[Judgment of the Court was made by R.SUBBIAH, J.]

This Writ Appeal has been filed as against the order, dated 29.11.2016, made in W.P.(MD).No.22744 of 2016, whereby and whereunder, the learned Single Judge of this Court disposed of the Writ Petition, directing the appellants herein to re-designate the first respondent herein as Junior Assistant from the date of acquiring degree, within a period of four weeks from the date of receipt of a copy of the order. The learned Single Judge had made it clear that the above claim was accepted, subject to the condition that it shall be accounted only for the purpose of seniority, promotion and pension and not for back wages.

2. The case of the first respondent before the learned Single Judge is that he was appointed as Record Clerk in the appellants Corporation on 08.02.1988. He completed the degree course in the year 1990. Thereafter, he made a representation dated 30.12.1990, with a request to re-designate him as Junior Assistant. In the year 1994, he was re-designated as Junior Assistant. In the meanwhile, several other persons were directly appointed as Junior Assistants. In the year 2002, the first respondent was promoted as Assistant and thereafter, in the year 2009, he was further promoted as Senior Assistant and subsequently, in the year 2015, he was promoted as Special Grade Assistant.

3. Since the first respondent possessed the required qualification of degree, he made a representation stating that he had to be re-designated as Junior Assistant with effect from the date of acquiring degree. The claim of the first respondent was not considered. In the meanwhile, similarly situated persons, numbering 12, like that of the first respondent herein, filed W.P. (MD).No.5875 of 2009, which was, by order dated 20.07.2009, disposed of, directing the appellants Corporation to consider the representation of the above said 12 persons and pass appropriate orders re-designating them as Junior Assistants with retrospective effect. The first respondent, on 14.01.2016, submitted a representation requesting the appellants Corporation to re-designate him as Junior Assistant with effect from April 1990, in the light of the order, referred to above.



4. As the said representation was not considered, the first respondent filed W.P.(MD).No.22744 of 2016 for the issue of a Writ of Mandamus, directing the appellants Corporation to re-designate him as Junior Assistant retrospectively from the date on which the first respondent acquired the degree qualification, in the light of the order dated 12.10.2016, made in W.P.(MD).No.11076 of 2014.

5. The learned Single Judge of this Court, by order dated 29.11.2016, while disposing of the Writ Petition, directed the appellants herein to re-designate the first respondent herein as Junior Assistant from the date of acquiring degree within a period of four weeks from the date of receipt of a copy of the order. The said order is challenged in this Writ Appeal by the appellants Corporation.

6. We have heard the learned counsel appearing for the appellants, the learned counsel appearing for the first respondent and we have also perused the records carefully.

7. In an identical situation, a Division Bench of this Court had an occasion to consider a similar issue in W.A.(MD).No.981 of 2015, dated **29.09.2015**, [**The Managing Director, Tamil Nadu State Transport Corporation, Vs.N.Asokan**] and dismissed the Writ Appeal filed by the Tamil Nadu State Transport Corporation, thereby confirming the order passed by the learned Single Judge, extending the benefits granted to similarly situated persons. Under such circumstances, we are of the considered view, when the similarly situated persons were extended the benefits, the first respondent alone cannot be discriminated. Thus, the learned Single Judge was correct in directing the appellants Corporation to extend the benefits of re-designating the first respondent as Junior Assistant from the date of acquiring the degree qualification. The learned counsel for the first respondent has given an undertaking that the first respondent will not claim back wages, as it has been recorded by the learned Single Judge.

8. In view of the above, the Writ Appeal is dismissed, confirming the order dated 29.11.2016 made in W.P.(MD).No.22744 of 2016. The appellants are directed to implement the order passed by the learned Single Judge within a period of four weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/



To

1.The Managing Director,
Tamil Nadu State Transport Corporation,
[Tirunelveli] Limited,
Kattabomman Nagar, Tirunelveli.

WEB COPY

2.The General Manager,
Tamil Nadu State Transport Corporation,
[Tirunelveli] Limited, Tirunelveli Region,
Vannarpettai, Tirunelveli.

3.The Financial Advisor/Chief Account Officer,
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Kattabomman Nagar, Tirunelveli.

4.The Deputy Manager, HRD,
Tamilnadu State Transport Corporation,
(Tirunelveli) Limited,
Kattabomman Nagar, Tirunelveli.

+2cc to M/s.S.Sivanesan, Advocate SR.NO.4831

NB

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JUDGMENT MADE IN
W.A.[MD].No.83 of 2017
30.01.2017