

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.13412 of 2005

A.Mani

... Petitioner

Vs

The State Transport Corporation,
(Coimbatore Division II) Ltd.,
Represented by its Managing Director,
Head Office No.37,
Mettupalayam Road,
Coimbatore-43.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent-Management to consider the petitioner for third review as per the Longevity Pay Scheme Settlement dated 7.7.1977.

For Petitioner : Mr.Nasurullakhan for
Mr.K.V.Shanmuganathan

For Respondent : Mr.P.Kannan Kumar

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondent-Management to consider the petitioner for third review as per the Longevity Pay Scheme Settlement dated 7.7.1977.

2. The learned counsel for the writ petitioner states that the writ petitioner was appointed as Junior Assistant on 1.10.1974 on consolidated pay basis. The services of the writ petitioner was regularised with effect from 28.7.1976 and he was redesignated as Clerk.

3. The writ petitioner passed decree course within a period of six months. Considering the educational qualification possessed by the writ petitioner, his salary was revised from Rs.160/- to Rs.210/-. Again the writ petitioner was redesignated as Junior Assistant with effect from 17.2.1977.

4. The grievance of the writ petitioner is that the 'Longevity Pay Scheme Settlement' was introduced by the respondent for the benefit of the employees. However, the benefits of the Scheme had not been extended to the writ petitioner. The writ petitioner had submitted several representations to the authorities concerned and in spite of that, no reply has been furnished to the writ petitioner in respect of the Settlement of Longevity Pay Scheme benefits to the writ petitioner. Thus, the writ petitioner is constrained to move the present writ petition.

5. The learned counsel for the respondent states that the writ petitioner was not qualified at the time of joining into service. At that point of time, he has not passed his B.A. Degree. Thus, the writ petitioner was regularised with effect from 1.7.1976 and his scale of pay was fixed at Rs.160-5-220. Thereafter, he was redesignated as Clerk as per the Longevity Pay Scheme introduced with effect from 1.5.1975. After completion of graduation in September 1976, based on the representation of the writ petitioner, his pay scale was refixed at Rs. 210-5-250-10-350 with effect from 1.12.1976 and he was redesignated as Junior Assistant.

6. The Longevity Pay Scheme was introduced in the year 1977 in which the review benefits were introduced as 6 years, 8 years and 10 years respectively. The first review benefits were given to the writ petitioner from 1.2.1986, as he completed six years of qualifying service in the cadre of Junior Assistant. Thereafter, the second review benefits were given to the writ petitioner on 1.11.1993 instead of 1.2.1991, which he was not eligible due to loss of pay and non-qualifying service of 15 months for which various disciplinary actions were taken against him.

7. Further again for the third review benefit, he was not eligible on 1.11.2003 due to loss of pay and postponement of increment etc. The counter filed by the respondent reveals that the cases of 9 Conductors were different from the case of the writ petitioner and the same cannot be compared and the writ petitioner was facing certain disciplinary proceedings and punishments were also imposed for the proved misconducts. Due to loss of pay, he was found not eligible for qualifying service for getting the review benefits.

8. The benefit of the Scheme and the review benefits are to be granted in accordance with the terms and conditions of the Scheme. As per the terms and conditions of the Scheme, the employee must be having clean records. In the event of imposition of any punishment or the issue of the disciplinary proceedings, such services cannot be taken into account for the purpose of granting review benefits as per the Longevity Pay

Scheme.

9. Further, the grievance of the writ petitioner is that the respondent has not assigned any reason in respect of the disciplinary proceedings. This Court is of an opinion that the initiation of disciplinary proceedings were very well known to the writ petitioner. Also once the disciplinary proceedings are initiated against the employees, the employees are aware of all such proceedings. That being the fact, the writ petitioner ought to have stated all the details of the disciplinary proceedings in the writ petition. However, the affidavit filed in respect of the present writ petition did not reveal any such particulars or details. Thus, now the writ petitioner cannot raise the point that the respondent has not informed the details regarding the disciplinary proceedings initiated against the writ petitioner. These factors are very well known to the writ petitioner.

10. This apart, the Longevity Pay Scheme was introduced in the year 1977 and the first review benefit was already granted to the writ petitioner on 1.2.1986 and the second review benefit was also granted to the writ petitioner on 01.11.1993. However, the writ petition was filed in the year 2005. In any event, the writ petitioner has not established any acceptable ground for the purpose of grant of benefits with reference to the relief, as such, sought for in the present writ petition.

11. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Svn

+1 CC to Mr.K.V.Shanmuganathan, Advocate sr 83531.

+1 CC to Mr.P.Kannan kumar, Advocate sr 84594.

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VBA(CO)
SP(21/12/2018)