

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.13740 of 2018 AND WMP No.16211 & 16112 of 2018

N.Suresh

.. Petitioner

Versus

1.The Additional Chief Secretary to Government,
Home (Transport IV) Department,
Secretariat, Chennai - 9

2. The Transport Commissioner,
Chepauk, Chennai - 5

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the first respondent herein in his Letter No.76210/Tr.IV/2015-9 dated 01.12.2017 and the consequential order of the 2nd respondent herein passed in his proceedings R.No62429/RA2/2014 (E.O.No.156/18) dated 16.04.2018 and quash the same and consequently direct the first respondent herein to relax Rule 30(b) of the Special Rules for the Tamil Nadu Ministerial Service of non completion of two years as Assistant in State Transport Authority in the light of G.O.Ms.No.169, Home (Transport IV) Department, dated 28.02.2018 and consequently direct the second herein to include the petitioner's name in the inter-se seniority list published in R.No.24449/R3/2016 (E.O.No.191/2018) dated 23.05.2018 in the appropriate place and promote the petitioner as superintendent for the year 2017-2018 with all consequential service and monetary benefits.

For Petitioner : Mr.Ravi Shanmugam

For Respondents : Mrs.R.Janaki
Additional Government Pleader

O R D E R

The petitioner is serving as an Assistant in the Transport Department and the next avenue of promotion is Superintendent and to become eligible for promotion to the post of Superintendent, one should have served as Accountant for one

year and also for two years as Assistant in the State Transport Authority or State Transport Appellate Tribunal or in the office of the Deputy Transport Commissioner.

2. The case of the petitioner is that though the petitioner has worked as Accountant as well as the Assistant, due to some administrative reason, the respondent did not transfer the petitioner as Assistant on 09.06.2014 and hence, the petitioner could not complete two years of service as Assistant and was short by 30 days in the post of Assistant and as such the short period of service was owing to the action of the respondent in not relieving the petitioner in time and hence, he could not acquire the requisite service experience. In the meanwhile, his Juniors have been promoted and in this regard, the petitioner submitted a representation to the 1st respondent herein on 02.05.2018 through proper channel for granting relaxation of Rule 30(b) of the Special Rule for Tamil Nadu Ministerial Service so as to promote him as Superintendent for the panel year 2017-2018 but till date, no order has been passed. However in the meanwhile, the second respondent has published tentative inter-se seniority list in which the petitioner name is not included in the list below Sl.No.57 and above Sl.No.58. Challenging the same, the petitioner filed this writ petition seeking for a direction to the first respondent to relax Rule 30(b) of the Special Rules for the Tamil Nadu Ministerial Service of non completion of two years as Assistant in State Transport Authority in the light of G.O.Ms.No.169, Home (Transport IV) Department, dated 28.02.2018 and consequently direct the second respondent herein to include the petitioner's name in the inter-se seniority list published in R.No.24449/R3/2016 (E.O.No.191/2018) dated 23.05.2018 in the appropriate place and promote the petitioner as superintendent for the year 2017-2018 with all consequential service and monetary benefits. Petitioner has also filed a representation to the 1st respondent ventilating the said grievance on 03.05.2018. Hence, the prayer as stated earlier.

3. The learned counsel appearing for the petitioner has relied on the similar orders passed by this Court in WP.15177 of 2013 dated 06.06.2013 and in WP No.15994 of 2013, wherein this Court has directed the 1st respondent to consider the case of the petitioner therein for promotion granting relaxation of service qualification of non completion of two years in the light of G.O.Ms.No.203, Home (Tr.IV) Department, so as to consider the case of the petitioner therein for promotion as Superintendent for the year 2017-2018, if he is otherwise qualified.

4. The learned counsel for the petitioner submits that though he has sought for a larger relief but since he has filed a representation ventilating his grievance, the respondent be

directed to take a considered decision on the same in the light of the aforesaid decision and Government Order within a stipulated time frame.

5. Though, notice has been ordered by this Court to the respondents on 08.06.2018, counter affidavit is yet to be filed.

6. This Court, taking into consideration of the nature of the relief sought for by the petitioner, is of the opinion that no purpose is going to be served by asking for a counter affidavit/response from the respondents and keep the matter pending. The learned Government Advocate has no objection to grant the relief sought for in the absence of counter, but submitted that the same may be considered in accordance with law. Hence, this Court taking note of the facts and submissions made, directs the 1st respondent to consider and dispose of the petitioner's representation dated 03.05.2018 on merits and in accordance with law especially taking note of the law laid down by this Court in the writ petitions (cited supra) and the Government orders passed by the Government in this regard, within a period of eight weeks from the date of receipt of a copy of this order. However, it is made clear that the aforesaid observation should not be construed as a mandate of this Court on the merit of the representation made by the petitioner.

7 The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

rka

To

1. The Additional Chief Secretary to Government,
Home (Transport IV) Department,
Secretariat, Chennai - 9

2. The Transport Commissioner,
Chepauk, Chennai - 5

+1 CC to Mr. Ravi Shanmugam, Advocate sr 40533

W.P.No.13740/2018

GSP (30/07/2018)