



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.02.2018**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.300 of 2018

and

C.M.P.(MD)No.1779 of 2018

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The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Bye-pass Road,
Madurai-10.

... Appellant/1st Respondent

Vs.

1. P.Kannayeeram
2. Govt. Of Tamil Nadu,
Rep by Chairman and Secretary,
to Government,
Transport Department,
Secretariat,
Chennai-600 009.

... Respondents/Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, against the order of this Court dated 31.01.2017 in W.P.(MD).No.7720 of 2010.

Prayer in WP(MD). 7720/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI/MANDAMUS, calling for the impugned order of the 1st Respondent in his proceedings Legal/W.P.No.4731/98 dt.05-12-2008 and quash the same and consequently direct the 1st Respondent to notionally promote the petitioner as Assistant Manager with effect from 01-11-1998 and as Selection Grade A.M. with effect from 01-02-2004 in the light of the orders passed by this Honourable Court in W.P.4731/98 dt.21-12-2004 followed by order in W.A.2047/2005 and 2048/2005 dt. 22-06-2007 and consequently to prepare correct working sheet of arrears of Rs.7,26,248/- and other attending monetary benefits.

For Appellants

: Mr.A.Jeyaram

For R1

: Mr.S.Govindan

For R2

: Mr.V.R.Shanmuganathan

Spl. Government Pleader

**JUDGMENT**

(Judgment of this Court was delivered by **T.S.SIVAGNANAM, J**)

Heard Mr.A.Jeyaram, learned counsel appearing for the appellant and Mr.S.Govindan, learned counsel appearing for the first respondent and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the second respondent.

2.This appeal by the Transport Corporation is directed against the order in W.P.(MD).No.7720 of 2010 dated 31.01.2017. The respondent/writ petitioner challenged the order passed by the first appellant dated 05.12.2008 and sought for a direction to notionally promote him as Assistant Manager with effect from 01.11.1998 and as selection Grade Assistant Manager with effect from 01.02.2004 in the light of the orders passed in W.P.No.4731 of 1998 dated 21.12.2004 and in W.A.No.2047 of 2005 and 2048 of 2005 dated 22.06.2007 and consequently to prepare correct working sheet of arrears of Rs.7,26,248/- with attendance benefits.

3.The case of the petitioner is that he had acquired B.L Degree and the petitioner was given promotion as Junior Superintendent on 03.11.1986. However, he was denied further promotion though 74 of his juniors were promoted further and ultimately, they were promoted as Assistant Manager. Therefore, the petitioner after his retirement made a request to the appellant Management that he should be notionally promoted and ultimately given the promotion to the post of Assistant Manager and consequently pay all the arrears. This amount was calculated by the first respondent as Rs.7,26,248/-.

4.The Writ Court after considering the factual matrix found that the petitioner's junior viz., Balasubramanian was drawing higher pay and therefore, held that the petitioner cannot be discriminated and his pay was stepped down. This Court took note of the fact that the petitioner had retired from service on 31.02.2006 and therefore, declined notional promotion. The only relief granted to the petitioner is by calculating the arrears payable to the petitioner in the post of Section Officer from 01.11.1998 by taking into account of Rs.7,900/- as the pay which was paid to the first respondent/writ petitioner. In respect of the other reliefs sought for by the first respondent/writ petitioner, they have not been entertained.

5.We find that the order passed by the Writ Court is perfectly justified, especially, when it has been established that the petitioner's junior was drawing higher pay, the reason for the pay anomaly was on account of the fact that the petitioner had filed writ petition to revise his pay on par with his Junior and consequent the revision of pay, which was made in the cadre of Junior Superintendent. The appellant Management was not justified



in not extending the same benefit to the respondent/writ petitioner, merely because he had not approached this Court for such an relief. Therefore, if the seniority has to be revised, all persons come within the zone of consideration have to be considered.

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6.The writ Court rightly granted the direction to revise the pay in the cadre of Junior Section Officer and also rightly denied the further notional promotions to be the stage of the Deputy Manager as the petitioner had retired on 31.03.2006.

7.Thus, for the reasons, we find that the appellant Management have not made any grounds to interfere with the order passed in the writ petition. Accordingly, the writ appeal fails and stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Chairman and Secretary to Government,
Govt. of Tamil Nadu,
Transport Department,
Secretariat,
Chennai-600 009.

NS

VB/JC/SAR4/16.04.2018/3P/2C

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