

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.11.2019

C O R A M

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.25144 of 2013

M.Annadurai

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Secretary
Transport (D) Department
Fort St.George, Chennai-9.

2. The Managing Director
Tamilnadu State Transport Corpn.
(Salem) Ltd.,
12 Ramakrishna Road, Salem-7.

3. The Deputy Secretary to Government
Transport (D) Department
Fort St.George, Chennai-9.

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to 3rd respondent's order made in letter No.14154/D/2009-2 dated 30.6.2010, to quash the same and consequently direct the respondents to revise and refix the pay of the petitioner as Selection Grade Assistant on the basis of Time Bound Promotion with effect from 26.12.2000 as per Government Orders in force at the time of retirement and to extend all retiral pension and pensionary benefits thereto forthwith.

Prayer amended as per order dated 20.08.2014 by BRJ in MP.1/14.

For petitioner : Mr.L.Chandrakumar

For R2 : Ms.Rajini Ramadoss

For R1 and R3 : Ms.K.Bhuvaneshwari
Additional Government Pleader.

ORDER

The instant writ petition is filed for a Writ of Certiorarified Mandamus, calling for the records relating to 3rd respondent's order made in letter No.14154/D/2009-2, dated 30.6.2010, to quash the same and consequently, direct the respondents, to revise and refix the pay of the petitioner, as Selection Grade Assistant, on the basis of Time Bound Promotion, with effect from 26.12.2000, as per Government Orders in force at the time of retirement and to extend all retiral pension and pensionary benefits thereto forthwith.

2. The petitioner was appointed as Assistant in the Transport Department on 19.02.1973. He was promoted as Superintendent and later on as Senior Superintendent and further promoted as Assistant Manager and reached the age of superannuation on 28.02.2006. The petitioner states that the Government has issued a G.O.(D) No.107, Transport (D) Department, dated 05.07.2006, by which an Assistant Manager shall be appointed as selection grade Assistant Manager on completion of 8 years of qualifying services. The petitioner states that since he was appointed as an Assistant Manager in the year 1994, he was entitled to promote as a Deputy Manager in the year 2006 by virtue of G.O.(D) No.107, Transport (D) Department, dated 05.07.2006. The demand of the petitioner has been rejected by the impugned order dated 30.06.2010 on the ground that the benefit of G.O.(D) No.107, Transport (D) Department, dated 05.07.2006, cannot be given to such of those persons who are not in service. This order which has been challenged in this writ petition.

3. Heard the learned counsel for the parties.

4. It has been pointed out by this Court that the same benefits have been extended to other persons, who are similarly situated. Judgment dated 23.11.2011 in W.P.Nos.30384 and 30672 of 2007 in S.Chakkaravarthy vs. The State of Tamil Nadu, has been produced along with the typed set of papers. In the said judgment the benefit of G.O.(D) No.107, Transport (D) Department, dated 05.07.2006, was extended to a person who attained the age of superannuation on 31.10.2000. For brevity, Paragraph No.6 of the order in W.P.No.30384 of 2007, reads as under:-

"6. In the light of the said submission the impugned order dated 08.08.2007 passed by the first respondent is set aside and the writ petition is disposed of giving direction to the first respondent to consider the case of the petitioner afresh in consonance with the promotion given to the retired

person viz., Varadharajan, who had worked in the State Express Transport Corporation and Kanagasabapathy, who voluntarily retired w.e.f.31.10.2000 and also taking into consideration the Government Letter dated 18.12.2006. Necessary order is directed to be passed by the first respondent within a period of six weeks from the date of receipt of a copy of this order."

5. Similarly, by an order dated 23.11.2011 in W.P.No.30672 of 2007, filed by yet another person similarly situated, the benefits of G.O.(D) No.107, Transport (D) Department, dated 05.07.2006, has been given to him. For brevity, Paragraph No.6 of the order in W.P.No.30672 of 2007, dated 23.11.2011, reads as under:-

"6. In the light of the said submission the impugned order dated 21.08.2007 passed by the first respondent is set aside and the writ petition is disposed of giving direction to the first respondent to consider the case of the petitioner afresh in consonance with the promotion given to the retired persons viz., Varadharajan, who had worked in the State Express Transport Corporation and Kanagasabapathy, who voluntarily retired w.e.f. 31.10.2000 and also taking into consideration the Government Letter dated 18.12.2006. Necessary order is directed to be passed by the first respondent within a period of six weeks from the date of receipt of a copy of this order. No Costs. Consequently, the connected miscellaneous petition is closed."

6. As against the same, the State of Tamil Nadu, filed W.A.Nos.898 and 899 of 2012, the Hon'ble Division Bench of this Court dismissed the appeal and upheld the order of a learned Single Judge. The orders have been complied with by Letter No.1622/D/2012, dated 01.03.2013.

7. A perusal of the compliance letter would show that the judgment of the Hon'ble Division Bench of this Court in W.A.Nos.898 and 899 of 2012, was challenged before the Hon'ble Supreme Court by filing a SLP, which has also been dismissed.

8. The learned counsel for the 2nd respondent does not contest any facts mentioned above.

9. This Court is of the view that the facts of the case is squarely covered by two judgments mentioned supra, the writ petition is allowed. The respondents are directed to give the benefits of G.O.(D) No.107, Transport (D) Department, dated 05.07.2006 to the petitioner, by promoting the petitioner as Assistant Manager with effect from 2000 and grant all other

benefits to which he is entitled under law. Consequential order be passed within a period of twelve weeks from the date of receipt of a copy of this order. No Costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
State of Tamil Nadu
Transport (D) Department
Fort St.George, Chennai-9.
2. The Managing Director
Tamilnadu State Transport Corpn.
(Salem) Ltd.,
12 Ramakrishna Road, Salem-7.
3. The Deputy Secretary to Government
Transport (D) Department
Fort St.George, Chennai-9.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.91598
+1cc to the Government Pleader, S.R.No.91108

W.P.No.25144 of 2013

NRL(CO)
CS/04/12/2019

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