

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.32748 of 2015
and M.P.No.1 of 2015

G.Jayabalan

...Petitioner

Versus

- 1.The State of Tamilnadu
Rep. by the Under Secretary,
Transport (D) Department, Fort St.George,
Chennai - 9.
- 2.The Managing Director,
Tamil Nadu State Express Transport Corporation Ltd.,
#2, Pallavan Salai, Chennai - 600 002.
- 3.The Deputy Secretary to Government,
Transport (D) Department,
Fort St.George, Chennai - 9.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of the second respondent made in Letter No.023277/HR6/SETCTN/2015 dated 06.07.2015 to quash the same and consequently, direct the respondents to revise and refix the pay of the petitioner as Selection Grade Assistant Manager on the basis of Time Bound Promotion w.e.f., 30.01.2001 as per Government orders in force at the time of retirement and to extend all retiral, pension and pensionary benefits thereto forthwith.

For Petitioner : Mr.J.Chandrakumar

For Respondents - 1 & 3 : Mr.J.Pothiraj,
Spl. Govt. Pleader

Respondent - 2 : Mr.K.Kathiresan

O R D E R

The relief sought for in the present writ petition is to call for the records relating to the order of the second respondent made in Letter No.023277/HR6/SETCTN/2015 dated 06.07.2015 to quash the same and consequently, direct the respondents to revise and refix the pay of the petitioner as Selection Grade Assistant Manager on the basis of Time Bound Promotion w.e.f., 30.01.2001 as per Government orders in force at the time of retirement and to extend all retiral, pension and pensionary benefits thereto forthwith.

2. It is the case that the petitioner was initially appointed through Tamil Nadu Public Service Commission as Chargeman on 15.01.1974 and later, he was promoted as Foreman on 12.11.1979. Thereafter, he was promoted as Junior Engineer w.e.f. 21.01.1983 and then promoted as Assistant Engineer on 21.03.1985. Then, he was promoted as Assistant Manager on 29.12.1994 and superannuated on 30.06.2005.

2.1 The Government vide G.O.Ms.No.761 Transport (Committee) Department dated 30.04.1993 had directed for grant of Time Bound Promotion formulating a scheme and as per which-

(a) the Assistant Manager shall be appointed as Selection Grade Assistant Manager on completion of 6 years of qualifying services and

(b) those who have completed 6 years of qualifying services as Assistant Manager are eligible to the post of Selection Grade Assistant Manager in the scale of pay of Rs.8,000/- Rs.13,500/- w.e.f. the next day falling within their completion of 8 years of qualifying services as Assistant Manager.

2.2 The name of the petitioner was placed for consideration along with other eligible persons for grant of such promotion in the Board Meeting held during 2003 - 2004. The petitioner made a representation dated 30.04.2015, requesting to grant Time Bound Promotion, however, the same was rejected by the second respondent vide Letter No.023277/HR6/SETCTN/2015 dated 06.07.2015. Hence, the petitioner left with no other alternative, has filed the present writ petition for the relief stated supra.

3. The learned counsel for the petitioner submitted that two similarly placed persons like that of the petitioner have filed writ petitions in W.P.Nos.30384 of 2007 & 30672 of 2007 respectively before this Court and by order dated 23.11.2011,

this Court disposed of the said writ petitions. Against the said orders, the respondents therein have filed W.A.Nos.898 & 800 of 2012 before this Court and the same was dismissed on 14.06.2012. He further submitted that the petitioner made a representation dated 30.04.2015 requesting to grant Time Bound Promotion, however, the same was rejected by the second respondent on the ground that Time Bound Promotion cannot be considered, since, the Government Order No.107, Transport (D) Department, dated 05.07.2006 had been issued only after the date of his retirement on 30.06.2005. He therefore prayed that the impugned order passed by the second respondent may be set aside.

4. The learned Special Government Pleader appearing for the respondents 1 & 3 would contend that while the petitioner was serving as Assistant Manager for ten years, he had not made any representation and he made representation only after his superannuation. He further submitted that the petitioner approached this Court belatedly and that the present writ petition may be dismissed.

5. Heard both sides and perused the materials available on record.

6. As far as this case is concerned, though the petitioner had completed eight years of qualifying service as Assistant Manager, he was not promoted as Selection Grade Assistant Manager. Further, while the petitioner was serving as Assistant Manager from 29.12.1994 till 30.06.2005, he had not made any representation, whereas, he made representation only after his retirement.

7. It is very important to quote the relevant paragraphs of the two Government Orders viz., G.O.Ms.No.761 Transport (Committee) Department dated 30.04.1993 and G.O.(D).No.107 Transport (D) Department dated 05.07.2006 hereunder:

- paragraph Nos.2, 3 & 4 of G.O.Ms.No.761 Transport (Committee) Department dated 30.04.1993:

"2. The Recommendation Nos.169 and 170 made by the Committee are as follows:

169. Time Bound Promotions shall be extended to all the streams in the managerial grade in the State Transport Undertakings viz., Technical/Traffic/Personnel/Finance and Accounts, but at only one Level viz., Assistant Manager to Deputy Manager. For all other grades, the Promotion should be by merit-cum-seniority.

170. Introduction of time bound promotion only at one level, that is, Assistant Manager to Deputy Manager had created problems of placement. Deputy Managers are posted as Branch Managers also for want of positions, which his colleagues are posted as unit heads in the Head Office. It is better that instead of promoting them as Deputy Managers, they may be given the benefit of scale of pay applicable to the Deputy Manager cadre at the end of 6 years by calling them as Selection Grade Assistant Managers. Only when a post of Deputy Manager falls vacant. The Senior Most Selection Grade Assistant Manager can be posted as Deputy Manager. This concept may be followed in all discipline.

3. After careful consideration the Government accept the Recommendation No.169 extracted in Para 1 above as implemented.

4. So far as the Recommendation No.170 is concerned the Government have considered the functional duties of Deputy Manager, the line of control and superintendence to be ensured, the hierarchy to be maintained and confusion to be avoided, the Government therefore accept the recommendation subject to the condition that the scale of pay of Deputy Managers is not to be revised and the position of Selection Grade Assistant Manager and Deputy Manager are to be Convertible and on the same scale."

- paragraph No.3 of G.O.(D).No.107 Transport (D) Department dated 05.07.2006:

"3. Accordingly, the Government issue the following amendment to the orders issued in the references first and second read above with regard to Promotion/Upgradation of the posts of Assistant Managers in State Transport Undertakings to Selection Grade Assistant Manager in the scale of pay of Rs.10,000-325-15,200 under Time Bound Promotion.

(i) The Assistant Managers shall be appointed as Selection Grade Assistant Manager on completion of 8 years of qualifying service.

(ii) Those who have completed 8 years of Qualifying service as Assistant Manager in the scale of pay of Rs.8,000-13,500- will become eligible to the post of Selection Grade Assistant Manager - with effect from the next day following the date of their

completion of 8 years of Qualifying service as Assistant Manager.

(iii) The other two qualifications prescribed in the Government Letter third read above remain unaltered."

8. From a perusal of the aforesaid Government Orders, it is seen that as per G.O.Ms.No.761 Transport (Committee) Department dated 30.04.1993, the petitioner completed 8 years of qualifying service as Assistant Manager and therefore, he is entitled for promotion to the post of Selection Grade Assistant Manager. It is also seen that vide subsequent Government Order issued in G.O.(D).No.107 Transport (D) Department dated 05.07.2006, the Government had revised the guidelines with regard to the promotion of the posts of Assistant Managers to Selection Grade Assistant Manager under Time Bound Promotion and the same is applicable to the petitioner. No doubt, the petitioner is fully eligible for promotion to the post of Selection Grade Assistant Manager.

9. Considering the facts and circumstances of the case, this Court directs the respondents to consider the petitioner's representation dated 30.04.2015 and extend the benefits of G.O. (D)No.107, Transport (D) Department, dated 05.07.2006 to the petitioner by promoting him as Selection Grade Assistant Manager with effect from 2001 and grant all other benefits to which he is entitled under law, as expeditiously as possible within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

10. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

mrr

5/10

To

1.The Under Secretary,
Transport (D) Department, Fort St.George,
Chennai - 9.

2.The Managing Director,
Tamil Nadu State Express Transport Corporation Ltd.,
#2, Pallavan Salai, Chennai - 600 002.

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

+1 cc Mr.K.Kathiresan Advocate sr96899

+1 cc to the Government Pleader sr98065

+1 cc to the Mr.L.Chandrakumar Advocate sr97152 dt 27/02/2020

W.P.No.32748 of 2015

aa26/02/2020

aa27/02/2020



WEB COPY