



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :28.03.2019

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP(MD)No.21551 of 2017

P. Kannan

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Thirunelveli) Ltd., Kattabomman Nagar,
Thirunelveli.

2. The General Manager,
Tamil Nadu State Transport Corporation,
(Thirunelveli) Ltd.,
Nagercoil Region,
Ranithottam, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to re-designate the petitioner as Junior Assistant retrospectively from the date on which the petitioner obtained the degree qualification in the same manner, the posts of the persons who were appointed along with petitioner as Record Clerks were re-designated as Junior Assistant from the date of their acquiring degree in the light of the order this Court in WP(MD).No.11076 of 2014, 11476 of 2014 and 4479 of 2015 by the order dated 12.10.2015 and WP(MD).No.3368 of 2016 by order dated 11.01.2017.

For Petitioner : Mr.S. Sivanesan

For Respondents : Mr. K. Sathiyasingh

ORDER

This Writ Petition has been filed seeking to direct the respondents to re-designate the petitioner as Junior Assistant retrospectively from the date on which the petitioner obtained the degree qualification.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. According to the learned counsel for the petitioner, the claim of the petitioner with regard to re-designation as Junior Assistant, has not been considered, despite the fact that the Writ Petitions filed by the similarly placed persons, in W.P(MD).

Nos.11076 of 2014 etc., batch of cases, have been disposed of in their favour, vide order dated 12.10.2015, wherein at paragraph No.7, it has been held as follows:

"7. This Court is not able to find any merits in these writ petitions. In the case of J.Anthony Manokar Gnanasekar, C. Sivaji and P.Thangasamy, originally, they were appointed in the post of Record Clerk, however, as they obtained degree in various subjects on subsequent dated, the respondent has issued separate order re-designating them in the post of Junior Assistant, may be taking into the existing vacancies available then. But, in the present also proceedings issued in favour of P. Thangam promoting to the post of the Junior Assistant, clearly shows that there was a vacancy even on 24.04.1986. Another proceedings dated 10.08.1989 passed in favour of K.S. Murugan, who is the Conductor and Kothandaraman, shows that they were vacancies even in the year 1989, in the post of Junior Assistant. Therefore, it is not open to the respondent to say that due to non availability of vacancies for the post of Junior Assistant, the petitioners were denied re-designation on earlier occasions. In any event, when the learned counsel appearing for the petitioners have consistently requested this Court that the petitioners are not passing their benefit of back-wages from date of acquisition of degree and they are asking the notional promotion for the purpose of promotion and seniority and pension alone, this Court has no hesitation to direct the respondent to re-designate the petitioners as Junior Assistant from the date of acquisition of degree without granting benefit of back-wages. Accordingly, the respondent is directed to re-designate all the petitioners as Junior Assistant, from the date of acquisition of degree without granting benefit of back-wages."

Further, the Writ Appeals filed against that orders, were also dismissed in W.A(MD).Nos.706 to 710 of 2017, dated 22.06.2017.

4. The submissions so made by the learned counsel for the petitioner has been conceded by the learned counsel for the respondents.

5. In such view of the matter, the respondents are directed to consider the case of the petitioner in line with the order of this Court dated 12.10.2015 in W.P(MD).Nos.11076 of 2014 etc., referred to Supra, and pass necessary orders, within a period of six weeks from the date of receipt of a copy of this order, after affording due opportunity of hearing to the petitioner.



6. With the above direction, this Writ Petition is disposed of. No costs.

sd/
Assistant Registrar

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Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Thirunelveli) Ltd., Kattabomman Nagar,
Thirunelveli.
2. The General Manager,
Tamil Nadu State Transport Corporation,
(Thirunelveli) Ltd.,
Nagercoil Region,
Ranithottam, Kanyakumari District.

+1 CC to Mr.S.SIVANESAN, Advocate (SR-57662[F] dated 29/03/2019)
+1 CC to Mr.K.SATHIYA SINGH, Advocate (SR-57667[F] dated
29/03/2019)

ORDER MADE IN
WP (MD) No.21551 of 2017
28.03.2019

trp
MK (07.05.2019) 3P 5C