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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.10.2019
CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI
W.A.[MD]No.1031 of 2019

Muthukumar : Appellant/Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam, Division III (Karaikudi Region),
Corporate Office, Railway peder Road,
Kumbakonam, Tanjore District.

2.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Karaikudi Region,
Karaikudi,
Sivagangai District. : Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 06.06.2019 by learned Single Judge made in W.P.[MD]No.12821 of 2019 on the file of this Court and allow this Writ Appeal.

Prayer in WP(MD). 12821/ 2019 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to post the petitioner in any post at par with his seniority with allied benefits.

For Appellant : Mr.T.Kumar
For Respondents : Mr.D.Sivaraman
Standing Counsel

JUDGMENT
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[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

By consent of both parties, the Writ Appeal is taken up for final disposal at the admission stage itself.

2.We have heard Mr.T.Kumar, learned Counsel appearing for the appellant and Mr.D.Sivaraman, learned Standing Counsel accepting

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notice on behalf of the respondent Corporation.

3.This appeal is filed by the writ petitioner challenging the order in W.P.[MD]No.12821 of 2019 dated 06.06.2019. The appellant filed the writ petition praying for a direction to direct the respondents to post the appellant in any post by reckoning his seniority and consequently grant the allied benefits.

4.The learned Writ Court opined that promotions are to be considered strictly with reference to seniority, eligibility of the employee concerned as per the Rules in force and promotion cannot be granted by the Court in the absence of establishing that the authorities had violated the Rules or promoted a junior. There can be no second opinion on this finding rendered by the learned Writ Court. However, we find that the case of the appellant is factually different from what waved in the minds of the learned Writ Court.

5.The appellant is working as a Driver in the respondent Corporation and on 27.10.2009, when he was driving a bus, some miscreants opposing the vehicle pelted stones on the windshield of the bus and broken the glass. The broken glass pieces hurt the petitioner's face and one such glass piece pierced his left eye, resulting in total vision loss in the left eye. The appellant would state that there are as many as 15 such drivers who sustained various types of disabilities and their services were considered and posted as Driving Instructor, during 2016 itself.

6.In the light of the factual position, we are of the view that the request made by the appellant can be considered by the respondent Corporation on merits and in accordance with the relevant Rules. Therefore, we find that the writ petition should be disposed of with a direction to the respondent Corporation to consider the petitioner's request. We find that the petitioner has not given any representation but sent a legal notice. We do not appreciate the manner in which the appellant had addressed his employer. The first requirement for an employee is to request his employer for redressal of his grievances. Only after affording reasonable time to the employer, if nothing turns out, then the aggrieved person is at liberty to take legal recourse. Therefore, the appellant should give a proper representation which shall be considered by the respondent Corporation.

7.Mr.D.Sivaraman, learned Standing Counsel for the respondents submitted that there is a gross delay even in the filing of the writ petition after issuance of the legal notice in the year 2011 and there are very many subsequent developments.

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8.All those factors can be taken note of while disposing of the representation. Accordingly, the Writ Appeal is allowed and the impugned order is set aside and the writ petition is disposed of by directing the petitioner to submit a detailed representation enclosing all relevant materials. On receipt of the same, the respondents shall consider the same in accordance with law as expeditiously as possible. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

MR

To

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam, Division III (Karaikudi Region),
Corporate Office, Railway peder Road,
Kumbakonam, Tanjore District.

2.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Karaikudi Region,
Karaikudi, Sivagangai District.

+1 CC to M/s.T.KUMAR, Advocate (SR-92259[F] dated 16/10/2019)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-92322[F] dated 17/10/2019)

Judgment made in
W.A.[MD]No.1031 of 2019
16.10.2019

KM/(30.10.2019) 3P 5C

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