



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.19984 of 2017

A.Muthukannu

... Petitioner

-Vs-

1.Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Represented by the Managing Director,
No.27, Railway Station New Road,
Kumbakonam-621 001.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region, Kumbakonam-613 001.

... Respondents

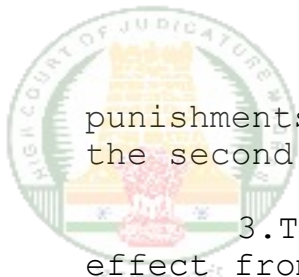
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider and promote the petitioner to the post of Traffic Inspector on par with his junior D.Narayanan notionally and grant fourth review benefits with all consequential service benefits, including monetary benefits due to the petitioner.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.D.Sivaraman

ORDER

This Writ Petition is filed to direct the respondents to consider and promote the petitioner to the post of Traffic Inspector on par with his junior, namely, D.Narayanan notionally and grant fourth review benefits with all consequential service benefits, including monetary benefits due to the petitioner.

2.According to the petitioner, he was appointed as Trainee Conductor on 18.01.1985 and his service was confirmed in the post of Conductor on 01.08.1987. The management and union entered into settlement periodically and as per the settlement, services of the employees are reviewed and as on date, there are 5 review benefits ie., a Conductor is entitled to get his service reviewed between the gap of 6+7+7+7+5 years of service. The first review for the petitioner is in the year 1992 and he was designated as Senior Conductor. The petitioner suffered two punishments ie., increment cut for two years with cumulative effect dated 29.01.1993 and increment cut for one year with cumulative effect dated 23.07.1996. The petitioner was promoted as Junior Checking Inspector on 23.02.1999. The second review benefit was postponed due to the



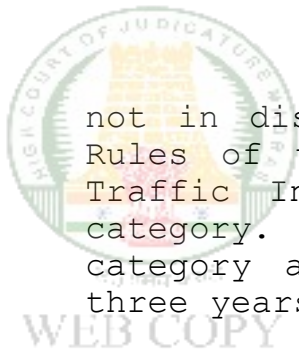
punishments imposed on the petitioner in the year 1993 to 1996 and the second review was granted only on 01.05.2005.

3.The petitioner was promoted as Checking Inspector with effect from 01.05.2005 and as Senior Checking Inspector with effect from 01.05.2012. According to the petitioner, his juniors, namely, D.Narayanan, K.Sundararaj, A.Arockiam, S.Govindarajan, S.Duraiaraj and C.Thirunavukkarasu were promoted as Traffic Inspector with effect from 13.08.2004. The punishments of increment cut imposed on the petitioner were modified in the appeal filed by the petitioner on 02.01.2014. The respondents have not taken into account the modification of punishment and also changed the review pattern as per the subsequent settlements. Had the respondents considered the facts properly, the petitioner would have been promoted as Traffic Inspector on par with his juniors. The petitioner retired from service on 31.03.2015, on attaining the age of superannuation and the petitioner is entitled to notional promotion as Traffic Inspector with monetary benefits.

4.The respondents have filed counter affidavit and denied all the averments. The learned counsel appearing for the respondents denied the contention of the petitioner that on appeal, punishments were modified as alleged by the petitioner. The petitioner was promoted as Junior Checking Inspector on 23.02.1999 and Checking Inspector on 01.05.2005 and Senior Checking Inspector on 01.05.2012. The Senior Checking Inspector is one of the feeder category for promotion to the post of Traffic Inspector. As per Rule 59(b) of the Common Service Rules of the respondent Corporation, the persons to be promoted as Traffic Inspector, must have possess three years experience in feeder category. The petitioner was promoted as Senior Checking Inspector on 01.05.2012. In view of the same, the petitioner is not entitled for notional promotion to the post of Traffic Inspector, as he has not completed three years in the feeder category. His junior, namely, D.Narayanan was promoted in the year 2004 and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondents and perused the materials available on record carefully.

6.From the materials on record, it is seen that the petitioner while working as Senior Conductor was imposed two punishments in the years 1993 and 1996. In view of the said punishments, the second review of the petitioner was postponed and he was promoted as Checking Inspector on 01.05.2005 and Senior Checking Inspector on 01.05.2012. It is pertinent to note that the petitioner's juniors were promoted in the year 2004 itself, earlier to the promotion of the petitioner. In spite of the same, the petitioner has not challenged the delayed promotion as Checking Inspector and even now, he has not challenged the same. As per the settlement, the petitioner's service was reviewed in the year 2012 as Senior Checking Inspector on 01.05.2012. It is



not in dispute that as per the Rule 59(b) of the Common Service Rules of the respondent Corporation, a person to be promoted as Traffic Inspector must have three years service in the feeder category. The petitioner has not completed three years in feeder category and he retired on 31.03.2015 ie., before completion of three years in feeder category.

7.For the above reasons, the petitioner is not entitled for the relief sought for in the Writ Petition. In the result, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

Myr

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-97038[F] dated 08/11/2019)

+1 CC to M/s.A.RAHUL, Advocate (SR-97159[F] dated 08/11/2019)

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