

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 13.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 10793 OF 2013

AND

W.M.P. NOS. 7559 & 7560 OF 2020

P.Kannaiyram

.. Petitioner

- Vs -

1. Government of Tamil Nadu
rep. By its Secretary
Transport Department
Secretariat, Chennai - 9.

2. The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Division
3/137, Salamedu, Villupuram 605 602.

3. The General Manager
Tamil Nadu State Transport Corporation
Villupuram Division - I
Villupuram Region, Villupuram.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records in connection with the Order No.189/14903/E1-TNSTC(VPM) 2012 dated 5.11.12 passed by the 3rd respondent herein and quash the same and consequently direct the respondents to give special increment to the petitioner from the date of graduation, post-graduation and Post-Graduate Diploma in Public Relations (PGDPR) and promotion to the post of Junior Checking Inspector as extended to the other employees.

For Petitioner : Mr. R.Sampathkumar

For Respondents: Mr. A.N.Thambidurai, Spl. GP for R-1
Mr. C.S.K. Sathish for RR-2 & 3

ORDER

It is the case of the petitioner that on completing +2, the petitioner joined the 2nd respondent Corporation on 20.12.1985 as Conductor. After obtaining permission from the concerned authority, the petitioner pursued his studies and obtained,

graduate, post-graduate and Post-Graduate Diploma in Public Relations. It is the case of the petitioner that on his completion of higher studies, he is eligible for special increment as well as promotion to the post of Junior Checking Inspector under the special quota for graduates. It is the further case of the petitioner that he is entitled to promotion and special increment from 1993, the date on which he completed his post-graduation. Though the petitioner was granted promotion as Senior Conductor and Special Grade Conductor, however, the said promotions were on regular basis and not on the basis of special quota for graduate persons.

2. It is the further case of the petitioner that though proposal was initiated by the respondents, however, no action was taken, which prompted the petitioner to file W.P. No.17144/12 praying for a direction to the respondents to dispose of the representation filed by the petitioner. Though this Court directed the respondents to dispose of the petitioner's representation within a period of eight weeks, however, the said order was not complied with, which prompted the petitioner to file a contempt petition. Pending the contempt petition, order was passed on the said representation of the petitioner.

3. Since even after repeated representations and inspite of guidelines issued by the respondents, the petitioner was not granted special increments nor promotion was granted to him, though the petitioner was eligible for both the benefits even during 1993. In the above circumstances, though many persons were granted similar benefit, the petitioner alone having been not extended the benefit, the petitioner has come before this Court by filing the present petition.

4. Learned counsel appearing for the petitioner, while reiterated the contentions raised in the grounds of detention, further submitted that the petitioner alone is being singled out and is not being given the benefit for reasons best known to the respondents. Further, it is the submission of the learned counsel for the petitioner that though the counter reveals the position of the petitioner in the line of wait listed candidates for promotion, the particulars obtained by the petitioner under the Right to Information Act paints a different picture, which shows the petitioner has been placed above in the seniority list. Therefore, the list produced by the respondents does not reflect the correct picture and should not be relied upon by this Court. The petitioner having obtained his qualifications way back in the year 1993, is entitled to be considered on and from such date and his non-consideration till the present point of time, citing posts are not available, though persons, similarly placed like the petitioner, have been granted

promotion and increment benefits, is wholly arbitrary and illegal and, accordingly, prayed for allowing the present petition.

5. Per contra, learned counsel appearing for the 2nd respondent submitted that the particulars submitted by the respondents in the earlier round of litigation in W.P. No.17144/12 clearly reveals that persons, who had joined prior to the petitioner have been granted promotion to the post of Junior Checking Inspector. It is the stand of the respondents that the date of the initial appointment of the persons is taken into consideration for the purpose of granting promotion. The petitioner having been appointed only in December, 1985, his case was kept under waiting list and as and when vacancy arises, his case would be considered.

6. This Court bestowed its best attention to the contentions advanced by the learned counsel appearing on either side and also perused the materials available on record to which this Court's attention was specifically drawn.

7. A perusal of the materials available on record reveal that the letter addressed to the petitioner in pursuance to W.P. No.17144/12 reveal the basis on which the promotions have been effected. It is evident from the said communication that the crucial date taken for the persons, who have fulfilled the qualification for promotion of Junior Checking Inspector is the date of their appointment. The said communication also reveals that persons, who were appointed upto 17.1.1985 were considered for promotion and the petitioner being appointed only on 20.12.1985, his name features in the waiting list of candidates under the special graduate quota. It is the contention of the petitioner that the said record is not a factual representation, as the details obtained by him under the Right to Information Act reveals a different picture. Though such a stand has been taken the petitioner, which paper finds place in the additional typed set, however, no reliance can be placed on the said communication for the simple reason that though the letter is signed, however the alleged annexed documents are unsigned documents, which cannot be the basis for the Court to pass a different order. Further, even otherwise, it is to be pointed out that those documents are also not substantially wrong, as many of the persons, whose names figure in the communication filed by the respondents in W.P. No.17144/12, find place in the said communication as well. So the said document cannot be the basis for this Court to reject the communication filed in the earlier round of litigation. Therefore, the petitioner has to wait his turn to get the promotion under the special graduate quota, based on his date of appointment. Therefore, this Court is not inclined to grant the relief of promotion as sought for

by the petitioner on the basis of the materials available on record. Accordingly, the prayer of the petitioner for promotion is liable to be rejected and the same is rejected.

8. Insofar as the relief sought for by the petitioner relating to grant of special increments for completing graduation, post-graduation, etc., though claim is made by the petitioner for such increments, however, the affidavit of the petitioner is silent as to the basis on which such special increments are being sought for. The petitioner has not placed any administrative instructions/regulations/rules of the Corporation which confer such benefit on persons, who obtain higher qualifications. Equally, the counter of the respondents also is silent on the aspect of special increments that is granted to persons, who obtain higher qualifications. The respondents have neither accepted nor disputed the said prayer of the petitioner. In the absence of any materials available on record the basis on which such a relief is sought for, this Court is not in a position to accede to the prayer for grant of special increments to the petitioner. However, equally there being no counter/averment by the respondents to the contra, this Court is also not inclined to rule out the relief to the petitioner. In the above circumstances, this Court is of the view that the petitioner could be permitted to submit a representation to the respondent seeking the relief of special increments, and the respondents shall consider the same on the basis of the rules/administrative instructions in force during the particular period when the petitioner obtained the relevant qualifications and pass suitable orders on the representation as expeditiously as possible.

9. In the result, the writ petition is dismissed with the aforesaid observations and directions. In view of the orders passed above, the miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

GLN

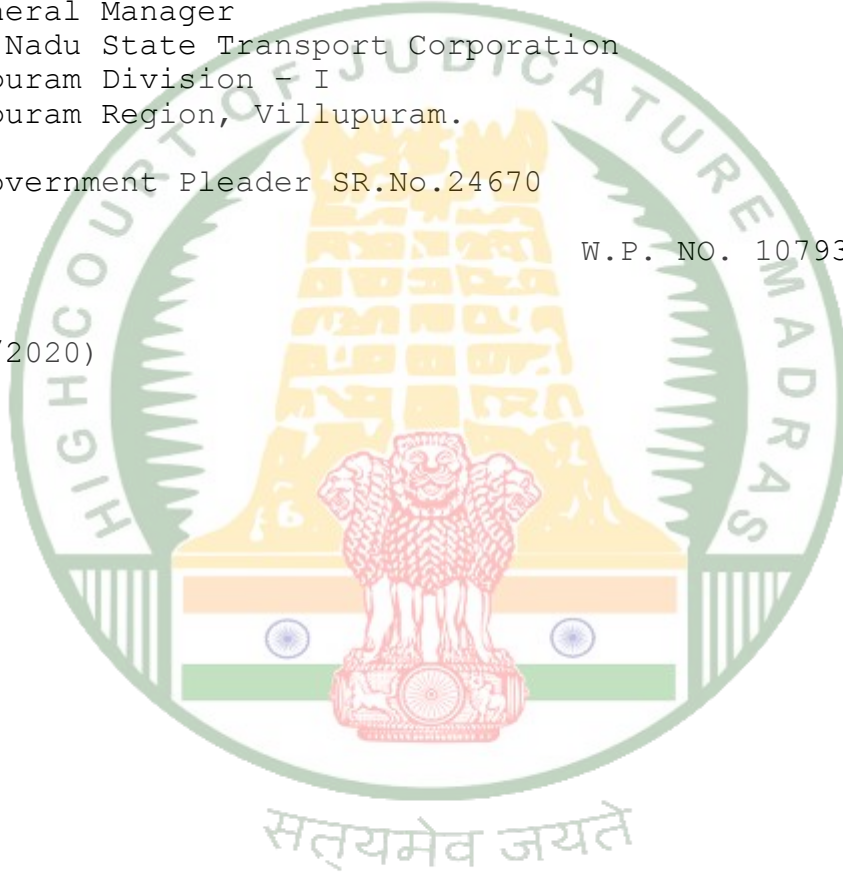
To

1. The Secretary to Government
Transport Department
Government of Tamil Nadu
Secretariat, Chennai - 9.
2. The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Division
3/137, Salamedu, Villupuram 605 602.
3. The General Manager
Tamil Nadu State Transport Corporation
Villupuram Division - I
Villupuram Region, Villupuram.

+1cc to Government Pleader SR.No.24670

W.P. NO. 10793 OF 2013

SSD(CO)
GMY(06/08/2020)



WEB COPY