

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2020

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.16752 of 2014

R.Prakash
S/o.(Late) Ramasamy,
9/172 Anna Maduvu S.K.P.Nagar,
Pachampalayam 638 314, Anthiyur Taluk,
Erode District. ... PETITIONER

Vs.

- 1 The State of Tamilnadu
rep by its Principal Secretary to Government
Transport Department,
Secretariat, Chennai 9
- 2 The Director,
Institute of Road Transport,
Taramani, Chennai 113
- 3 The Principal
Institute of Road and Transport Technology (IRTT),
Sri Vasavi College Post, Erode 638 316 Erode District
- 4 S.Ravi
Lab Technician Estate Maintenance
Department Institute of Road and Transport
Technology (IRTT) Sri Vasavi College Po
Erode 638 316 Erode District. ...RESPONDENTS

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to grant Selection Grade pay to the petitioner with effect from 22.8.2002 instead of 12.06.2006 and also to promote the petitioner to the post of Lab Technician with effect from 23.08.2010 on par with his qualification Seniority and experience after considering the petitioner's representations dated 30.11.2011, 17.01.2012, 23.12.2013, 13.01.2014 and 08.04.2014.

For Petitioner : Mr.N.Manokaran
For Respondent No.1 : Mr.J.Ramesh, A.G.P.
For Respondent No.2&3 : Mrs.Kala Ramesh
For Respondent No.4 : C.E.Pratap

O R D E R

According to the petitioner, petitioner was appointed as Skilled Assistant on 5.4.1991 and he joined duty on 12.4.1991. The petitioner's service was regularised along with fourth respondent only on 12.6.1996, whereas in the case of others, after completion of two years of service w.e.f. 22.8.1992 Petitioner filed W.P.No.8215 of 2001 before this Court for Writ of Mandamus, directing the third respondent to regularize the service of the petitioner as Skilled Assistant w.e.f. 22.8.1992. This Court passed an order, dated 30.6.2009 directing the third respondent to consider the representation of the petitioner, dated 14.2.2000 within a period of eight weeks. Thereafter, the third respondent vide Memo No.1696/IRTT/Est./NT14/AAP/2009, dated 23.6.2009 passed an order reiterating the order of regularization w.e.f. 12.6.1996. Feeling aggrieved, the petitioner again filed W.P.No.5797 of 2010 and the same is pending before this Court. This Court in M.P.No.1 of 2010 in W.P.No.5797 of 2010 directed the respondents 2 and 3 to consider the claim of the petitioner for Selection Grade scale of pay on completion of ten years in the post of Skilled Assistant as on 12.6.2006. Pursuant to the order, dated 25.5.2011 passed by the second respondent, the Special Officer, IRT Polytechnic College, Burgur passed an order in proceedings No.01/SO/Supdt./ IRTPC/PGR/2011, dated 20.6.2011 awarding Selection Grade w.e.f. 12.6.2006 whereupon petitioner's designation has been re-designated as Skilled Assistant Grade I from Skilled Assistant Grade II. According to the writ petitioner, after granting the benefit of Selection Grade on 20.6.2011, the Special Officer, IRT Polytechnic College, Burgur, Krishnagiri District has sent a proposal along with his performance report for promotion to the post of Lab technician in Lr.No.01/SO/Est./2011, dated 20.10.2011. Even after three years, the respondents 1 to 3 have not taken any decision to grant promotion to the petitioner. Therefore, the petitioner sent several representations to the respondents 1 to 3 to grant Selection Grade with effect from the date on which his junior C.Ravi was granted Selection Grade, viz., 22.8.2002 and promote him to the post of Lab Technician w.e.f. 23.8.2010. But none of them have been considered by the respondents. Hence, the petitioner has filed the present writ petition for the aforesaid relief.

2. The learned counsel appearing for the petitioner submitted that the petitioner ought to have been regularized by the respondent on completion of two years of service on par with his junior, whereas petitioner's service was regularized only on 12.6.1996 and consequently, Selection Grade was awarded to the petitioner w.e.f. 12.6.2006, whereas the petitioner is eligible to get Selection Grade w.e.f. 22.8.2002 and consequently, the petitioner is entitled for promotion to the post of Lab Technician w.e.f. 23.8.2010.

3. The learned counsel appearing for the respondents 2 and would submit that challenging the order, dated 23.9.2009 by the third respondent rejecting the representation of the petitioner, the petitioner has filed W.P.No.5797 of 2010 and the same was dismissed by this Court by considering the relevant rules to regularize the petitioner's service as Skilled Assistant w.e.f. 22.8.1992. Therefore, the present writ petition is liable to be dismissed.

4. The petitioner has filed the instant writ petition before this Court with a prayer to grant Selection Grade w.e.f. 22.8.2002 instead of 12.6.2006. Writ petitioner has challenged the rejection order, dated 23.9.2009 passed by the first respondent rejecting the request of the petitioner to regularize the service of the petitioner w.e.f. 22.8.1992. In the aforementioned writ petition, it is specific claim of the writ petitioner that the respondents ought to have regularized the service of the petitioner as Skilled Assistant w.e.f. 22.8.1992 and grant Selection Grade pay scale on completion of 10 years of service as per Rules. By order, dated 17.9.2019, this Court rejected the claim of the writ petitioner and dismissed the writ petition. Therefore, first limb of the prayer sought for by the petitioner to grant Selection Grade w.e.f. 22.8.1992 cannot be granted for the reason that the petitioner's service was regularized w.e.f. 1.6.1996 and the same has become final in view of the dismissal of the writ petition in W.P.No.5797 of 2010. Therefore, on completion of 10 years, the petitioner is entitled to Selection Grade as on 12.6.2006. Hence, the first limb of the prayer sought for by the petitioner is unsustainable and the same is liable to be rejected.

5. Further, in so far as the promotion to the post of Lab Technician, petitioner is given liberty to make fresh representation to the respondents in the light of the order passed by this Court in W.P.No.5797 of 2010, dated 17.9.2019.

The writ petition is dismissed with the above observations. No costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy//

Sub Assistant Registrar

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To

- 1 The Principal Secretary to Government,
State of Tamilnadu, Transport Department,
Secretariat, Chennai 9.
- 2 The Director,
Institute of Road Transport, Taramani, Chennai 113.
- 3 The Principal,
Institute of Road and Transport Technology (IRTT),
Sri Vasavi College Post,
Erode 638 316, Erode District.

+1cc to Mrs.Kala Ramesh, Advocate, SR.No.4215.
+1cc to Mr.Manokaran, Advocate, SR.No.4058.
+1cc to Government Pleader, SR.No.4342.

W.P.No.16752 of 2014

VD(CO)
CSR: 02.03.2020