



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.46 of 2018

in

W.P. (MD)No.10416 of 2010

T.Nandha Kumar

... Appellant

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation Ltd,
(Madurai Division III),
Rani Thottam, Nagercil 629 001,
Kanyakumari District.

2.The District Employment Officer,
Kanyakumari District,
Nagercoil 629 001.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent, against the order dated 24.08.2017 passed by this Court in W.P.(MD)No.10416 of 2010.

Prayer in WP(MD). 10416 of 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records pertaining to the notification of the 1st respondent issued vide letter No. 2624/A10/TNST/2010 dated 31.05.2010 and quash the same and consequently directing the 2nd respondent to sponsor the name of the petitioner for the Conductor post to the 1st respondent by granting age relaxation.

For Appellant : Mr.V.Sasikumar
For Respondent No.2 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by **M.SATHYANARAYANAN, J.**)

The appellant/Writ Petitioner underwent a training for Conductor post and issued with a Conductor license in the year 1995 and got his name registered in the District Employment Exchange, Villupuram on 02.08.1995 and thereafter, on 27.07.1998, his name was



transferred from Villupuram Employment Office to Kanyakumari Employment Office/second respondent.

2.The grievance of the petitioner is that the second respondent, while forwarding the eligible candidates as per the seniority for the appointment of 214 Drivers and 227 Conductors, as per the request of the first respondent, did not follow 1:20 ratio and he submitted a representation in that regard, which came to be rejected by the Office of the Employment Training, dated 07.08.2009. Petitioner made a challenge to the said order through W.P.(MD) No.8896 of 2009 and it was dismissed on 24.08.2017 and W.A.(MD). No.45 of 2018, preferred against the said order is also ended in dismissal vide judgment passed by this Court on 16.07.2020.

3.The learned counsel appearing for the appellant/writ petitioner would submit that the age limit prescribed for the Backward Class candidates like the appellant/writ petitioner was 35 years and on account of non-following of the proper ratio, he has become age barred and therefore, he has made a request in the form of representation for relaxation of said age. However, without properly considering the same, the said request came to be rejected vide impugned order of the second respondent, dated 31.05.2010. Challenge made to the said order by filing writ petition, is also ended in dismissal on 24.08.2017, on the ground that the petitioner was guilty of delay and laches in approaching this Court and the said reason cannot be sustained for the reason that the impugned order, which is the subject matter of the writ petition came to be passed on 31.05.2010 and the petitioner has filed the writ petition during August 2010 and therefore, prays for interference.

4.Per contra, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader would submit that the prescription of the qualification and age limit falls within the domain of the Appointing Authority and assuming for the sake of arguments that the petitioner is entitled for relaxation, the same should be made applicable in respect of other candidates also by applying the principle of parity and it may create practical and other difficulties by both the respondents and as on date, the petitioner is aged about 47 years and in the light of the passage of time also, no positive order could be passed in favour of the appellant/writ petitioner and hence, prayed for dismissal of the writ appeal.

5.This Court has considered the rival submissions and also perused the materials on record carefully.

6.The prescription of qualification and upper age limit falls within the domain of the Appointing Authority and this Court cannot act as the Appointing Authority for relaxation of qualification and age limit. A challenge made by the petitioner as to the alleged non- following of 1:20 ratio, in sponsoring the



the hands of this Court in W.A.(MD).No.45 of 2018 on 16.07.2020.

7.This Court as a matter of course cannot relax the age limit, as rightly pointed out by the learned Additional Government Pleader appearing for the second respondent. Now, the petitioner is aged about 47 years and even this Court passes a positive order, he may not get any relief out of the same. In the light of the reasons assigned as above by the respondents, this Court finds no merits in this appeal.

8.In the result, the Writ Appeal is dismissed, confirming the order dated 24.08.2017 passed by this Court in W.P.(MD)No.10416 of 2010. There is no order as to costs.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vs /das

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The General Manager,
Tamil Nadu State Transport Corporation Ltd,
(Madurai Division III),
Rani Thottam, Nagercil 629 001,
Kanyakumari District.

2.The District Employment Officer,
Kanyakumari District,
Nagercoil.

W.A(MD)No.46 of 2018

in

W.P. (MD)No.10416 of 2010

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