

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 19160 of 2010

E.Keasavan

... Petitioner

-vs-

The Regional Executive Director,
Airports Authority of India,
Southern Region,
Chennai - 600 027.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondent to grant promotion as higher grade MT Driver to the petitioner retrospective w.e.f. 02.04.1992 with consequential benefits of seniority, further promotion, pay fixation etc.,

For Petitioner : Mr.Paul and Paul
For Respondent : Mr.C.K.M.Appaji
Standing counsel

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondent to grant promotion as higher grade MT Driver to the petitioner retrospectively w.e.f. 02.04.1992 with consequential benefits of seniority, further promotion, pay fixation etc.,

2. The petitioner seeks promotion to the post of MT Driver (HG) with effect from 02.04.1992 and had made a request and in this regard, the Department Promotion Committee held on 24.10.1991 for promotion to the said post of MT Driver (HG) had considered the name of the petitioner and according to the respondent, since the petitioner did not have the qualifying service of three years in the lower grade, he was not considered.

3. However, the petitioner's name has been subsequently considered in the next DPC which was held on 19.04.1995, where, he was considered and given promotion to the post of MT Driver

(HG), this was communicated to the petitioner by order dated 24.02.2005.

4. Though the said order was passed on 24.02.2005 by the respondent / Airport Authority of India, the petitioner, if at all has got grievance of not considering his candidature to the post of MT Driver (HG) in the earlier DPC held on 24.10.1991, with regard to that aspect, he had to challenge the said order dated 24.02.2005, however, not challenging the same, he already filed the Writ Petition in W.P. No. 24138 of 2007, where, he simply sought for a mandamus to implement the decision made in DPC Meeting which was held on 07.02.1993 and promote him from 1993.

5. When that Writ Petition was taken up for hearing, the learned Judge of this Court, having considered the said aspects has disposed the said Writ Petition with the following orders:

"The petitioner has come forward with the present writ petition for a mandamus directing the respondent to implement the decision made in DPC Meeting which was held on 07.02.1993 and promote him from 1993.

2. It is seen that by a memorandum dated 24.02.2005 and 07.11.2005 the request made by the petitioner has been turned down by the respondent. Without challenging those proceedings, the petitioner has come forward with the present writ petition to implement the decision made in DPC Meeting said to have taken place on 07.02.1993 and to promote him from 1993. Hence this writ petition stands dismissed. Consequently, the connected M.P. is closed. No costs."

6. Even after the said order passed by this Court, the petitioner has not chosen to challenge any order passed by the Airport Authority of India denying such promotion claimed by the petitioner retrospectively from 1992 or 1993. Only at this juncture, the present Writ Petition has been filed seeking a prayer of Writ of Mandamus to grant promotion as Higher Grade MT Driver retrospectively from 02.04.1992 with all consequential benefits.

7. I have heard Mr. Paul and Paul, learned counsel appearing for the petitioner and Mr. C.K.M. Appaji, learned Standing counsel appearing for the respondent.

8. Since there has been already a promotion given to the petitioner with effect from 1995 and in this regard, if at all, the petitioner has got any grievance that he should have been

given such promotion either from 1992 or 1993 pursuant to the 2nd DPC held, i.e., on 24.10.1991 and also on 07.02.1993, the said order dated 24.02.2005 passed in this regard as referred above could have been put under challenge, if he is advised to do so. But, the petitioner has not chosen to make any such attempt to challenge the order dated 24.02.2005 and has repeatedly filed Writ Petition after Writ Petition seeking mandamus and the earlier Writ Petition as stated supra has been disposed of by this Court and the same attempt once again has been made by the petitioner in the present Writ Petition. Therefore, this Court is not impressed with the prayer sought for herein as the petitioner may not be entitled to get the mandamus at this stage for getting any retrospective promotion from 1992 since his promotion in the year 1995 has been conveyed by order dated 24.02.2005. Having receipt of the same, the petitioner has not chosen to challenge the same.

9. In that view of the matter, this Writ Petition fails, hence it is dismissed. However, it is open to the petitioner to challenge the said order dated 24.02.2005, if he is advised to do so and in that case, the issue of latches shall not stand in the way in view of the long pendency of this Writ Petition for more than ten years. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vji

To
The Regional Executive Director,
Airports Authority of India,
Southern Region,
Chennai - 600 027.

+1 cc to M/S.Paul & Paul, Advocate Sr No.20797
+1 cc tp M/S.C.K.M.Appaji, Advocate Sr No.20610

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VSN-II (CO)
RG.28.04.2021 (3P/4C)