



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.12.2021
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.4799 of 2013

K.Mohanasundaram

... Petitioner

vs

1. The Tamil Nadu State Transports Corporation,
Kumbakonam Limited,
represented by its Managing Director,
Railway Station Road, Kumbakonam.

2. The Tamil Nadu State Transports Corporation,
Tiruchirapalli Region,
represented by its Managing Director,
1, periya Milaguparai, Tiruchirapalli - 1.

3. The Tamil Nadu State Transports Corporation,
Karaikudi Region,
represented by its Managing Director,
Karaikudi.

... Respondents

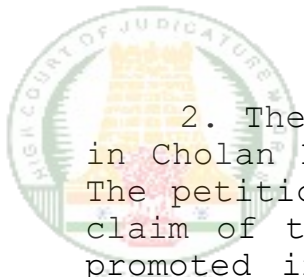
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent in TSTC/Kumba/Koo.A1/360/08, dated 05.09.2008, denying the pay in the promoted post with a condition to placing the petitioner as in-charge in the promoted post, quashing the same and consequently, directing the first respondent to rectify the defect in the promotion by treating him as promoted to the post of Security Inspector on a permanent basis with due pay increments from 13.09.2008 granting him the consequent pay fixation.

For Petitioner : Mr.S.K.Mani

For Respondents: Mr.K.Sathiya Singh, Standing Counsel

O R D E R

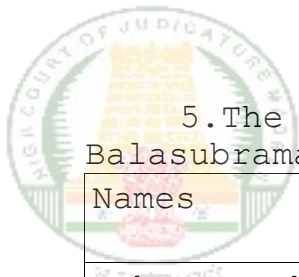
This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent, dated 05.09.2008, denying the pay in the promoted post with a condition to placing the petitioner as in-charge in the promoted post, quashing the same and consequently, directing the first respondent to rectify the defect in the promotion by treating him as promoted to the post of Security Inspector on a permanent basis with due pay increments from 13.09.2008 granting him the consequent pay fixation.



2. The petitioner was appointed as Security Guard on 17.01.1980 in Cholan Roadways Corporation, vide proceedings, dated 09.01.1980. The petitioner was promoted as Security Sergeant on 17.05.1995. The claim of the petitioner is that the petitioner ought to have been promoted in the year 1998 itself and the petitioner is comparing with one Balasubramanian. The contention of the petitioner is that he had passed S.S.L.C in the year 1971 and had passed P.U.C in the year 1972. The petitioner completed B.A. Degree course in Annamalai University in the year 1995. In the year 2005, the petitioner underwent a course in Security and Vigilance in STU, Tharamani, Chennai and obtained a certificate from the said Institution. The claim of the petitioner is that his colleague, namely, Balasubramanian was granted promotion on 24.01.1998. The petitioner was granted promotion on 05.09.2008 that too "Security Inspector (in-charge)" and the petitioner attained superannuation on 21.05.2012 and was retired as Security Inspector in-charge. That the petitioner has attained superannuation on 21.05.2012 and the relieving order, dated 25.05.2012, states that the petitioner had served as Security Inspector, there is no whisper when he was granted promotion as Security Inspector. Therefore, the petitioner was under the impression that he was serving as Security Inspector with full charge. However, the respondents have not granted any salary that is applicable to Security Inspector full charge. Therefore, the petitioner has filed this writ petition challenging the impugned order, dated 05.09.2008, denying the pay in the promoted post and to direct the respondents to rectify the defect in the promotion by treating as Security Inspector with full charge on a permanent basis with due pay increments from 13.09.2008 and all the consequential benefits.

3. The respondents have filed a counter affidavit stating that for promotion to the Security Inspector post, the number of vacancies would be ascertained and thereafter the candidates would be called for interview and after assessing the candidates eligibility, performance and other aspects by the interview Committee the candidates would be selected. The qualification for the Security Inspector for direct recruitment is, the candidate must possess S.S.L.C certificate, must have passed Junior Commission Officer from the Defence Services. The respondents have stated that the petitioner did not fulfill the second eligibility i.e., he is not from the Defence Service. The specific contention of the respondents is that the promotion to any post is the prerogative right of the Management. The Respondents have also stated that one Balasubramanian was granted before amalgamation i.e., on 24.01.1998. Therefore, the petitioner cannot compare with the said Balasubramanian.

4. Heard Mr.S.K.Mani, learned Counsel appearing for the petitioner and Mr.K.Sathiya Singh, learned Counsel appearing for the respondents.



5.The comparative chart of the writ petitioner and the said Balasubramanian is hereunder:

Names	Security Sergeant	Security Inspector	Superannuation
Mohanāsundaram	17.05.1995	05.09.2008	21.05.2012
Balasubramanian	01.10.1994	24.01.1998	01.09.2012

6.From the records submitted before the Court, it is seen that the said Balasubramanian and the petitioner are not from the Defence Service. Therefore, the contention raised by the respondents that the petitioner is not from the defence is rejected. The next plea is concerned, the petitioner has passed S.S.L.C from the recognized School. Therefore, the petitioner is eligible to be appointed as Security Inspector. The other plea raised by the respondent is that the said Balasubramanian was granted promotion prior amalgamation. If that plea is entertained, then the petitioner ought to have been granted promotion in the year 1999 itself in Trichy region but that was not granted and that is not the issue raised by the petitioner. The petitioner's specific plea is that he was granted promotion in Kumbakonam on 05.09.2008 as Security Inspector, but as 'in-charge'. But he was allowed to retire as Security Inspector and in the relieving order it is not mentioned as 'in-charge'. The respondent has not answered this contention of the petitioner.

7.Therefore, this Court is convinced that the petitioner ought to have been granted as Security Inspector full-charge. There is no reason to grant in-charge position to the petitioner. The respondents have rightly allowed the petitioner to retire after attaining the superannuation in the position as Security Inspector with full charge. Therefore, the petitioner is entitled to all the services and the monetary benefits including the increments in the post of Security Inspector as full charge. Therefore, this Court, directing the respondents to grant all the monetary benefits that is applicable to the post of Security Inspector full-charge with increments and other services and monetary benefits. The said exercise shall be done within a period of six weeks from the date of receipt of a copy of this order.

8.Therefore, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar



To

1. The Managing Director,
The Tamil Nadu State Transports Corporation,
Kumbakonam Limited,
Railway Station Road, Kumbakonam.

2. The Managing Director,
The Tamil Nadu State Transports Corporation,
Tiruchirapalli Region,
1, periya Milaguparai, Tiruchirapalli - 1.

3. The Managing Director,
The Tamil Nadu State Transports Corporation,
Karaikudi Region,
Karaikudi.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-40103[F] dated
23/12/2021)

Order made in
W.P. (MD)No.4799 of 2013
22.12.2021

jbr
MS/15.02.2022/4P.5C