



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.678 of 2021

and C.M.P. (MD) No.2935 of 2021

WEB COPY

1.The Managing Director,
Tamil Nadu State Transport Corporation
Madurai Ltd.,
Madurai - 625 010.

2.The Chief Financial Officer,
Tamil Nadu State Transport
Corporation Madurai Ltd.,
Madurai - 625 010.

.. Appellants/2nd & 3rd Respondents

Vs.

1.R.Sivakumar

.. 1st Respondent/Writ Petitioner

2.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Transport Department,
Chennai.

.. 2nd Respondent/1st Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 09.10.2020, in W.P.[MD]No.737 of 2020.

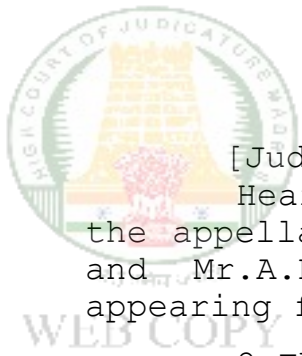
Prayer in WP(MD). 737/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertain to the impugned order passed by the 2nd respondent in Ref.Madurai/Law/W.P(md).10474/2019 dt 24.12.2019 and quash the same and consequently directs the respondents to revise the petitioners pay scale attached to the post of Programmer from the date of his re-designation as programmer i.e from 16.2.2016 in the light of the order passed by the Honble Madras high court in wp(md).3642/2012 dt 26.3.2012

For Appellants : Mr.J.Senthil Kumaraiah
Standing Counsel

For Respondent No.1 : Mr.G.R.Sathish

For Respondent No.2 : Mr.A.K.Manickam
Standing Counsel for Government



JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.J.Senthil Kumaraiah, learned Standing Counsel for the appellants, Mr.G.R.Sathish, learned counsel for respondent No.1 and Mr.A.K.Manickam, learned Standing Counsel for Government, appearing for respondent No.2.

2.The appeal filed by the Tamil Nadu Transport Corporation, Madurai Ltd., is directed against the order dated 09.10.2020, in W.P.(MD) No.737 of 2020. The said Writ Petition was filed by the first respondent praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in Ref:Madurai/Law/W.P.(MD) No.10474 of 2019, dated 24.12.2019 and for a consequential direction upon the appellants to revise the pay scale attached to the post of Programmer from the date of re-designation as Programmer in the light of the order passed in W.P.(MD) No.3642 of 2012, dated 26.03.2012. The learned Single Judge, after taking note of the said decision, held that the case is squarely covered by the said decision and granted the relief. Aggrieved by the said order, the appellants have filed this Writ Appeal.

3.The order passed in W.P.(MD) No.3642 of 2012, dated 26.03.2012, has been confirmed by the Hon'ble Division Bench of this Court in Writ Appeal No.2337 of 2012, dated 08.09.2014, wherein the appeal filed by the Tamil Nadu State Transport Corporation (Tirunelveli) Ltd., Nagercoil was dismissed.

4.The learned counsel for the appellants sought to distinguish the said judgment with regard to the post held by the first respondent herein and the first respondent in the said Writ Appeal. However, the legal question is with regard to the nature of duties and responsibilities and after being specified with the case to apply on the principle equal pay for equal work. The operative portion of the said judgment reads as follows:

"9.The contention of the appellant that the first respondent did not opt for participation in the selection process for directly being recruitment as Junior Programmer, has also been rightly rejected by the learned Single Judge, in view of the fact that when the appellant Corporation itself has chosen to re-designate the first respondent from the post of Junior Assistant (Computer Programmer) to the post of Junior Programmer by taking into consideration of his qualification to the said post, there is no need or necessity for the first respondent to compete with others and participate in the selection process for direct recruitment to the post of Junior Programmer. The learned counsel appearing for the appellant is not in opposition to make any distinction between the performance or the duties by the first respondent and Computer Programmer in other Corporations. When that being the



position, we are of the view that equal pay for equal work principle has to be applied to this case, which has been rightly applied by the learned Single Judge."

5.The Hon'ble Division Bench has also took note of the decision of the Hon'ble Supreme Court in ***S.Sivaguru v. State of Tamil Nadu*** reported in **2013 (7) SCC 335**, wherein it has observed that the redesignated Health Inspector Grade I ought to have been given the same scale of pay as Health Inspector Grade I from the date of merger. The issue having been attained finality in respect of other State Transport Corporations, a different view cannot taken against the appellants. Thus, we find no ground to interfere with the order passed by the learned Single Judge.

6.Accordingly, the Writ Appeal fails and the same is dismissed. The appellants are directed to compute the benefits payable to the first respondent/writ petitioner, consequent upon the dismissal of their appeal and settle the same within four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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 Managing Director,
Tamil Nadu State Transport Corporation
Madurai Ltd., Madurai - 625 010.
- 2.The Chief Financial Officer,
Tamil Nadu State Transport Corporation
Madurai Ltd.,Madurai - 625 010.
- 3.The Secretary to Government,
The Government of Tamil Nadu,
Transport Department, Chennai.

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