



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD)No.13095 of 2018

M. Nainar

... Petitioner

Vs.

1. The State of Tamil Nadu,
The Secretary to Government,
Home (Transport-IV) Department,
Secretariat, Chennai - 9.
2. The Transport Commissioner,
Chepauk,
Chennai - 600 005.
3. The Regional Transport Officer,
The Regional Transport Office,
Marthandam,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondents to promote the petitioner as Officer Superintendent by including his name in the panel for the year 2013-2014 by considering the representation of the petitioner dated 28.12.2016 and subsequent reminder dated 01.12.2017 within the time frame fixed by this Court.

For Petitioner : Mr. S.C. Herold Singh

For Respondents : Mr.A.K.Manikkam,
Standing Counsel for State.

ORDER

This Petition is filed for the issuance of a Writ of Mandamus, directing the respondents to promote the petitioner as Office Superintendent by including his name in the panel for the year 2013-2014 by considering the representation of the petitioner dated 28.12.2016 and the subsequent reminder dated 01.02.2018 within the time frame fixed by this Court.



2. According to the petitioner, he was appointed as Junior Assistant on 20.02.2004 and his services were regularized only with effect from 25.03.2015, though G.O.Ms.No. 289, dated 25.03.2015 categorically says that the Tamil Nadu Public Service Commission has given concurrence to regularise the seven employees in the post of Junior Assistant from the date of joining the Transport Department, that is 20.02.2004.

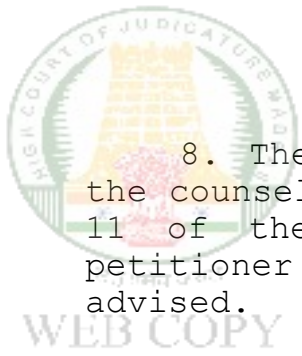
3. According to the petitioner, the respondents have not declared probation of the petitioner on the completion of two years of service for the reason that he was deputed for training belatedly and therefore the petitioner's service was not regularised on par with the seven employees, who have joined along with the petitioner as Junior Assistants. The petitioner states that he has completed the Tamil Nadu District Office Manual Test (DOM) during 2006 and has passed the account test for subordinate officers Part-I in May 2008, Motor Vehicles Act 1988 and Rules Test was completed by him during May 2008 and underwent Bhavanisagar training from 12-05-2015 to 23-06-2015 and subsequently completed the same. According to the petitioner, though he was ready and willing to go for the training, it was only because of the delay that was caused on the part of the respondent, he was sent for training belatedly and the respondent, only on the said ground of belated training did not regularise the services of the petitioner in time.

4. According to the petitioner, a person who is junior to the petitioner is promoted as Assistant but the petitioner was not considered for the promotion. Hence he made a representation to the respondent on 28.12.2016 and reminder dated 01.02.2018 and the said representation is still pending with the authority concerned. Hence, the petitioner has filed the present writ petition before this Court.

5. The learned Government counsel appearing for the respondents, quoting the averments made in paragraph 11 of the counter-affidavit, would submit that the petitioner has to approach the Government by stating the fact of administrative delay and seek relaxation of the norms and without such relaxation being granted by the Government, the petitioner will not be entitled for the next promotion to the post of Superintendent.

6. In the light of the above said submission made at paragraph 11 in the counter affidavit, the learned counsel appearing for the petitioner seeks liberty to approach the Government seeking relaxation of the norms as per the rules. Therefore he seeks to pass appropriate orders in the light of the submissions made by the respondent's counsel.

7. The learned counsel appearing for the respondent may not have serious objection for the aforesaid request made by the



8. Therefore, in the light of the above submissions made by the counsel for the parties concerned and in the light of paragraph 11 of the counter affidavit, liberty is granted to the writ petitioner to make representation to the authority concerned, if so advised.

9. With the grant of liberty, as above, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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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 State of Tamil Nadu,
The Secretary to Government,
Home (Transport-IV) Department,
Secretariat, Chennai - 9.
2. The Transport Commissioner,
Chepauk,
Chennai - 600 005.
3. The Regional Transport Officer,
The Regional Transport Office,
Marthandam,
Kanyakumari District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-32888[F] dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-33015[F] dated 28/10/2021)

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RK/JGB(18/11/2021) 3P 6C