



WP.No.20398 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2022

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THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.No.20398 of 2018

Y.Chiranjeevi

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Petitioner

Versus

1.The Additional Chief Secretary to
Government,
Transport Department,
Secretariat, Chennai – 600 009.

2.M/s.State Express Transport Corporation,
Rep. by its Managing Director,
Pallavan Salai,
Chennai – 600 002.

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Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the respondents to grant annual increment, weightage, review, wage settlement benefits, third review and fourth review from 2006 to 2017 and deemed promotion on par with juniors of the petitioner and pay the consequential benefits by considering the representations of the petitioner dated 27.07.2017 and 29.12.2017.



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WP.No.20398 of 2018

For Petitioner : Mr.D.Soundar Raj

For Respondents

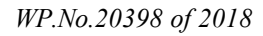
R1 : Mr.K.Kathiresan
Standing Counsel

R2 : Mr.R.Neethiperumal
Government Advocate

ORDER

The prayer sought for herein is for a writ of Mandamus to direct the respondents to grant annual increment, weightage, review, wage settlement benefits, third review and fourth review from 2006 to 2017 and deemed promotion on par with juniors of the petitioner and pay the consequential benefits by considering the representations of the petitioner dated 27.07.2017 and 29.12.2017.

2.The petitioner was appointed as Record Clerk in the year 1981 at the respondent Organization, i.e. State Express Transport Corporation. Though he was appointed as Record Clerk , for all these years of his service he had been placed at various capacities in various sections like Legal Section, Cash Section, Computer Reservation Ticket Section, Auditor,





WP.No.20398 of 2018

Mr.K.Kathiresan, learned Standing Counsel appearing for the respondent Corporation has submitted that in respect of the plea raised by the petitioner already a communication has been issued on 15.04.2016, where the rule position has been stated to the petitioner.

6.In order to produce the said communication dated 15.04.2016 since he sought for time, it was posted today. Today [10.08.2022], when the case is taken up for hearing, the learned Standing Counsel appearing for the respondent has produced a copy of the letter dated 15.04.2016 which is a covering letter where the letter dated 08.04.2016 of the Transport Corporation has been annexed. In the said letter, Rule 12 under the head “Linguistic Qualification” has been mentioned where it become an essential one to complete the Tamil language test as the employees working in the respondent Transport Corporation in a particular cadre has to complete the test within a period of four years.

7.If the incumbent is not able to complete the test within a period of four years his/her service shall be discharged by the respondent Corporation,

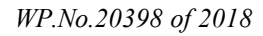


WP.No.20398 of 2018

i.e. Proviso to Rule 12 which has been quoted by the learned Standing Counsel for the respondent and would submit that insofar as the petitioner is concerned, in 2016 the Rule position was quoted to him and directed him to complete the test successfully. Since he has not come forward to complete the same he gave a letter for voluntary retirement with effect from 2018, the petitioner is not entitled to get any increment from 2006. Therefore, such a plea raised by the petitioner through the present writ petition may not be considered and granted, he contended.

8.I have considered the rival submissions made by both sides and perused the materials placed before this Court.

9.The petitioner was appointed as Record Clerk in the year 1981 and in that capacity he had been continuously working for 36 years before he gave voluntary retirement. If at all Rule 12 as mentioned by the respondent is to be invoked against the petitioner within the four years period, i.e. on or before 1985 either the petitioner could have been given a chance to complete the test or he should have been discharged from duties. However, the





WP.No.20398 of 2018

WEB COPY

13.The reason now cited by the respondent Corporation for not granting increment is not flowing from the Rule stated above. The Rule states that if he has not completed the test within four years even the employer can discharge the employee and in this case from the year 1981 till 2018 the petitioner has not been discharged. Moreover, four years limitation also was over. Therefore, the respondent Corporation has accepted the qualification of the petitioner and he had been permitted to serve the Corporation for 36 long years. Therefore, at the fag end the respondent Corporation cannot turn around and take a plea that since he has not completed the test within four years from the date of appointment, his increment which was cut off from 2006, after 25 years can be justified.

14.The reason cited by the respondent Corporation is not supported by any Rule including Rule 12 as stated by the respondent Corporation and moreover the person who worked for 36 years without any unblemished service cannot be denied to the lawful benefit of increment which would be payable to any other employee like the petitioner.



WP.No.20398 of 2018

WEB COPY

15. Therefore, this Court feels that this writ petition could be disposed of with the direction to the respondents as prayed for. Accordingly, the following orders are passed:

“That there shall be a direction to the respondents, especially the second respondent to consider the plea of the petitioner for grant of increment to the petitioner which was stopped from 2006 till 2018 and after giving such increment, his pay benefits shall be accordingly revised, based on which his pensionary benefits shall also be revised and paid to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.”

16. With the above direction, this writ petition stands disposed of.

However, there shall be no order as to costs.

10.08.2022

Internet : Yes
Index : Yes/No
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WP.No.20398 of 2018

To

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WEB COPY



WP.No.20398 of 2018

R.SURESH KUMAR, J.,

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WP.No.20398 of 2018

10.08.2022