



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.92 of 2015

D.Gopinath

... Petitioner

Vs.

1. The Special Commissioner
and the Secretary to Govt.,
Department of Transport
Secretariat,
Fort St.George
Chennai - 600 009.
2. Tamil Nadu State Transport
Corporation (Salem) Limited
Rep by its Managing Director
Salem Division
12, Ramakrishna Salai
Salem - 636007

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records pertaining to the order made in Ku.A.No.L3-46087-TNTC(Se)-2005 dated 26.08.2006 and subsequent order made in Ka.No. E2/18173/TNTC(Salem) /2014 dated 22.09.2014 passed by the 2nd respondent and quash the same and further directing the 2nd respondent to reinstate the petitioner in service as Conductor and further absorb him on regular scale of pay with effect from 1998.

For Petitioner : Mr.G.Pugazhenth

For R1 : Mr.M.Bindran
Additional Government Pleader

For R2 : Mr.A.Sundaravadhanan

ORDER

The order dated 19.06.2006 and further communication dated 22.09.2014 are under challenge in the present writ petition.



2. The writ petitioner was working as a daily wage conductor from the year 1998 to 2004. The petitioner states that he submitted a representation to absorb him as permanent employee. No action was taken by the respondents and he filed a writ petition in W.P.No.30038 of 2005 and this Court passed an order on 19.04.2006 directing the respondents to pass orders in terms of paragraph 34(iii) of the judgment passed in W.A.No.2985 of 2003.

3. The learned counsel for the petitioner made a submission that no action was taken by the respondents during the relevant point of time during the year 2006. The petitioner was submitting several representations, which were not considered. However, finally the respondents have issued an order on 26.08.2006 rejecting the claim of the writ petitioner, thereafter also the writ petitioner submitted representation on several occasions and again the order of rejection was passed on 22.09.2004. Thus, the petitioner is constrained to move the present writ petition.

4. It is an admitted fact that the petitioner was engaged as daily wage conductor on account of certain administrative exigences and the services were discharged during the year 2004. No doubt, the petitioner filed the writ petition pursuant to the order of this Court, the case of the writ petitioner was considered and final order was passed by the competent authority namely the Managing Director, Tamil Nadu State Transport Corporation, Salem in proceedings dated 26.08.2006. The said order was not challenged during the relevant point of time and now after a lapse of about 9 years, the petitioner has chosen to file the present writ petition challenging the order passed in year 2006.

5. With reference to the order dated 22.09.2014, which is also impugned, the learned counsel for the respondents reiterated that it is only intimation issued pursuant to the order of rejection dated 26.08.2006 and the intimation dated 22.09.2014 is challenged only to overcome the delay in filing the writ petition and therefore, the writ petition is to be rejected.

6. This Court is of the considered opinion that the petitioner admittedly was serving as daily wage conductor from 1998 to 2004, based on the order passed in W.P filed by the writ petitioner, the respondents have taken a decision and passed order on 26.08.2006. The petitioner has not chosen to challenge the said order during the relevant point of time and thereafter, submitted a representation and the said representation was replied by the respondents in proceedings dated 22.09.2014 and



the said communication cannot be construed as an initial cause for the purpose of filing the writ petition.

7. The claim of the writ petitioner was rejected in the year 2006 itself, further he was engaged as daily wages employee and therefore, he is not entitled for permanent absorption in violation of the service rules in force. This apart, the writ petition itself is filed after a lapse of several years from the date of rejection order and thus, the relief of reinstatement at this length of time deserves no further consideration.

8. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Jeni/Mrm

To

1. The Special Commissioner
and the Secretary to Govt.,
Department of Transport
Secretariat, Fort St.George
Chennai - 600 009.
2. The Managing Director
Tamil Nadu State Transport
Corporation (Salem) Limited
Salem Division, 12, Ramakrishna Salai
Salem - 636007.

+1cc to Mr.A.Sundaravadhanan, Advocate, S.R.No.36392
+1cc to Mr.G.Pugazhenthhi, Advocate, S.R.No.35222
+1cc to the Government Pleader, S.R.No.35884

W.P.No.92 of 2015

SSN[co]
NSK/01/07/2022