



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.12149 OF 2020

G.Rajkapur

... Petitioner

.Vs.

1. The State, Rep. by its
The Principal Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.
2. The State Express Transport Corporation,
Rep. by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002.
3. The State Express Transport Corporation,
Rep. by its General Manager,
No.2, Pallavan Salai,
Chennai - 600 002.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second respondent to appoint the petitioner as Assistant Engineer from the date of his appointment dated 05.01.2017 in view of the settlement arrived under 12(3) of the Industrial Disputes Act on 22.01.2011, 13.04.2015 and 04.01.2018 and the direction given by the first respondent to the second respondent vide, his letter No.5758/C1/2016-2 Transport (C1) Department dated 28.07.2016 by considering representation of the petitioner dated 23.01.2020 and 04.03.2020.

For Petitioner : Mr.D.Soundar Raj

For Respondents : M/s.Anitha
Special Government Pleader

Mr.K.Kathiresan
Standing Counsel for R2



ORDER

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the second respondent to appoint the petitioner as Assistant Engineer, from the date of his appointment.

2. The case of the petitioner in brief:

The petitioner was appointed as Non ITI Helper Trainee, under compassionate ground, vide order dated 05.01.2017 and after completion of training period, he was appointed as Junior Assistant vide order dated 23.02.2019. According to the petitioner, as per settlement arrived under Section 12(3) of Industrial Disputes Act dated 14.01.2018, appointment to the employees under compassionate quota, shall be, as per their qualification having at the initial stage of appointment. The petitioner acquired degree in Bachelor of Engineering (Mechanical), before appointment. Hence, as per the above provisions of the settlement, the respondents ought to have appointed the petitioner as Assistant Engineer and the petitioner has also given representations. But the respondents have not considered it. Hence this writ petition.

3. The contentions of the counter affidavit in brief:

As per G.O.Ms.No.18 Labour and Employment Department dated 23.01.2020, the vacancies, which come under C and D group alone shall be filled up under Compassionate Appointment. Further, the petitioner seeks to provide him Technical Supervisory Post, which squarely comes under group 'B' and the post of Assistant Engineer shall be filled up only by Direct Recruitment. Therefore, this writ petition has no merits and is liable to be dismissed.

4. Heard the counsel appearing for the petitioner and the counsel appearing for the respondents.

5. According to the petitioner, as per the proviso to Section 12(3) of the settlement under Industrial Dispute Act, the petitioner has made representations to appoint him as Assistant Engineer from the date of his appointment, however it was not considered. The contention of the respondents is that the petitioner was appointed as Junior Assistant, under compassionate ground, as per G.O.18 dated 23.01.2020. But the petitioner seeks higher post of Assistant Engineer, contrary to the above Government Order.



6. Admittedly, the petitioner was appointed as Junior Assistant under Compassionate ground. The post of Assistant Engineer, which is a technical supervisory post did not come under the purview of settlement arrived under Section 12(3) of the Industrial Dispute Act dated 22.01.2011. Apart from that, the above technical post has to be filled up only by way of Direct Recruitment, not under compassionate ground. Therefore, this court is of the view that there is no merits to allow the writ petition.

7. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Transport Department,
Secretariat,
Chennai - 600 009.
2. The Managing Director,
The State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai - 600 002.
3. The General Manager,
The State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai - 600 002.

+1cc to Mr.K.Kathiresan, Advocate, S.R.No.17474
+1cc to the Government Pleader, S.R.No.17738

W.P.NO.12149 OF 2020

PMK (CO)
PBS/06/04/2022