

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15612 of 2014 and
M.P.No.1 of 2014

R.Mathialagan

... Petitioner

Vs.

1. The Secretary to the Government of Tamil Nadu,
Transport Department, Fort St.George,
Chennai - 600 009.

2. The Managing Director,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Villupuram.

... Respondents

PRAYER:

This Writ Petition is filed under Article 226 of the Constitution of India praying for an issuance of a Writ of Mandamus directing the 2nd Respondent herein to grant and pay annual salary increment arrears for the period 01.11.2009 and 01.11.2010 to the petitioner.

For Petitioner : Mr.N.Thiagarajan

For Respondent : Mrs.R.L.Karthika
No.1 Government Advocate

For Respondent : Mr.G.Saravanakumar
No.2

O R D E R

The order of rejection rejecting the annual increment to the petitioner is under challenge in the present writ petition. The learned counsel for the petitioner mainly contended that the similarly placed persons who have not passed the IRT test during the relevant point of time were granted the benefits of annual increment. However, the petitioner alone is discriminated and the said benefit was not extended.

2.The learned counsel for the respondent Transport Corporation objected the said contention by stating that annual

increment was granted only to the qualified candidates, who passed the test as per the conditions imposed for grant of promotion. In the case of the petitioner, he was promoted as Senior Superintendent (Traffic) on condition that he should pass the IRT test within the stipulated period. Admittedly, the writ petitioner has not passed the test and therefore, he is not eligible to get the annual increment.

3. Even in a case where the department has irregularly granted the benefit to a particular employee, such an irregularity cannot be a ground to claim similar benefit on the ground that principles of equivalence is to be followed. The principles of equivalence would be applicable only if the benefits are granted to the similarly placed persons, who are all otherwise employed in accordance with the rules but not otherwise. In other words, the illegality cannot be a ground to claim the benefit for the continuance of such mistake in the present case. The writ petitioner has not passed the test admittedly and therefore not granted the annual increment.

4. The learned counsel for the respondents denied the fact that the persons who have not passed the test are granted with the annual increment. Even in such circumstances, if any irregularity is established, suitable action should be initiated to correct the mistake or otherwise. However, the Court cannot grant the relief merely based on an illegality or irregularity if at all committed by an establishment of the department.

5. This being the principles to be followed, the relief as such sought for by the writ petitioner for the grant of annual increment cannot be considered as the writ petitioner had not passed the relevant IRT examination for grant of annual increment. Accordingly, the writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sli/sms

To

1. The Secretary to the Government of Tamil Nadu,
Transport Department, Fort St. George,
Chennai - 600 009.

2. The Managing Director,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Villupuram.

+1cc to Mr.G.Saravanakumar, Advocate, S.R.No.363941
+1cc to the Government Pleader, S.R.No.35927

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RSI (CO)
CT/11/07/2022