



W.P.(MD)No.7011 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.7011 of 2020

A.Jesuraja

... Petitioner

Vs.

1. The Principal Secretary to Government,
Transport Department,
Government of Tamil Nadu Cum
Ex-officio Chairman,
All Tamil Nadu State Transport
Corporation Limited,
Fort. St. George,
Chennai – 600 009.
2. The Managing Director,
Tamilnadu State Transport Corporation (KUM) Ltd.,
New Railway Station Road,
Kumbakonam – 612 001.
3. The General Manager,
Tamilnadu State Transport Corporation (KUM) Ltd.,
Karaikudi Region,
Mardhupathi, Mangiri Post,
Karaikudi – 630 307.

..... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent pertaining to the impugned order passed in Ref.Th.Aa.Po.Ka/Sattam/Sa1/401 dated 13.11.2013 and quash the same and further to direct the respondents to appoint the petitioner in the post of Junior Assistant from the date of original appointment as Helper in the respondents corporation from 01.10.1997 and to give additional increment and all monetary and consequential benefits including periodical review from the date of entry into service with interest at the rate of 18%.

For Petitioner	:	Mr.K.Gokul
For R1	:	Mr.S.P.Maharajan Special Government Pleader
For R2 & R3	:	Mr.P.Balasubramanian Standing counsel

ORDER

This writ petition has been filed challenging the impugned order passed by the second respondent dated 13.11.2013 and to quash the same and consequently direct the respondents to appoint the petitioner in the post of Junior Assistant from the date of original appointment as Helper in the



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respondents Corporation from 01.10.1997 and to give additional increment and all monetary and consequential benefits including periodical review from the date of entry into service with interest at the rate of 18%.

2. The case of the petitioner is that he was appointed as Operator Grade II at Tamil Nadu Magnesium and Marine Chemicals Limited at Ramnad District during the year 1989. The petitioner has passed Diploma in Advanced Computer Programming and completed B.A., degree during the year 1994. Since the said Company was closed, the petitioner was laid off and the Government of Tamil Nadu taking note of the plight of the petitioner and similarly placed persons issued G.O.(Ms).No.59, Industries Department, dated 20.02.1997. By virtue of the said G.O., State Public Sector Undertaking including Transport Corporations were directed to stop further appointment of candidates through other channels till the staff of Tamil Nadu Magnesium and Marine Chemicals Limited are absorbed in respective posts having regard to consideration regarding suitability, eligibility and qualifications possessed by the individuals. As per the said G.O., the petitioner was absorbed as Helper in the third respondent



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Corporation on 01.10.1997. But some of his juniors, who were qualified technically (ITI), absorbed as Junior Tradesman. Even though the petitioner had a qualification of B.A., in Economics and Advanced Computer Programming, he was appointed as Helper. Not satisfied with the said post of Helper, he has filed a writ petition in W.P.No.17790 of 1998 before this Court. On 13.06.2008, this Court has allowed the writ petition and directed the respondent Corporation to offer a post commensurate with his academic qualification and to provide all benefits arising out of the same within a period of eight weeks from the date of receipt of a copy of this order. As the said order was not complied with, the petitioner has filed a contempt petition in Cont.P.No.1133 of 2008. When the case was taken up for hearing on 01.10.2009, the respondent Corporation stated that the petitioner has been appointed as Junior Assistant with effect from 15.09.2009. However, the petitioner had a grievance against the said order. Hence, he has filed a writ petition before this Court in W.P.(MD).No.14455 of 2010. This Court, by order dated 14.03.2013, directed the third respondent to look into the petitioner's representation dated 20.09.2010 and pass orders on merits and in accordance with law, within a period of three months from the date of



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receipt of a copy of this order. Pursuant to which, the present impugned order has been passed by the second respondent on 13.11.2013, rejecting his claim stating that he is not entitled to be posted as Junior Assistant from 01.10.1997. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that based on the G.O.(Ms).No.59, Industries Department, dated 20.02.1997, the petitioner was absorbed as Helper in the third respondent Corporation in the year 1997. But some of his juniors were absorbed as Junior Tradesman. Hence, he has filed a writ petition in W.P.No.17790 of 1998 and this Court, by order dated 13.06.2008, allowed the writ petition and directed the respondent Corporation to offer a post commensurate with his academic qualification and to provide all benefits arising out of the same within a period of eight weeks from the date of receipt of a copy of this order. Since the said order was not complied with, the petitioner has filed a contempt petition. Thereafter, the petitioner was appointed as Junior Assistant with effect from 15.09.2009. However, the petitioner is entitled to be appointed as Junior Assistant from the date of his initial appointment ie.,



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01.10.1997. Hence, the petitioner has filed a writ petition in W.P.(MD).No. 14455 of 2010 and this Court, directed the third respondent to look into the representation of the petitioner dated 20.09.2010 and to pass orders on merits and in accordance with law. But the said order was not implemented. Therefore, the order impugned in the writ petition is liable to be set aside and he prayed for allowing the writ petition.

4. The learned Standing counsel appearing for the respondents 2 and 3 would submit that earlier the very same relief was sought for by the petitioner in the writ petition in W.P.(MD).No.14455 of 2010 and this Court, in paragraph No.5 of the order dated 14.03.2013, clearly stated that the petitioner has now been appointed as Junior Assistant on 15.09.1997. The petitioner now seeks for regularising the appointment in the said post with effect from the date on which he was appointed as Helper and to give all consequential monetary benefits. Such a prayer cannot be acceded to as the appointment dated 15.09.1997 was accepted by the petitioner and he joined the service. When such a categorical finding rendered by this Court, contrary no action was taken by the respondents Corporation. Hence, he



prayed for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner, learned counsel appearing for the respondents and perused the materials available on record.

6. The facts in the present case are not in dispute. Initially during the year 1989, the petitioner was appointed as Operator Grade II in Tamil Nadu Magnesium and Marine Chemicals Limited at Ramnad District. Since the said Company was closed, the petitioner was laid off and the Government of Tamil Nadu taking note of the plight of the petitioner and similarly placed persons issued G.O.(Ms).No.59, Industries Department, dated 20.02.1997. By virtue of the said G.O., State Public Sector Undertaking including Transport Corporations were directed to stop further appointment of candidates through other channels till the staff of Tamil Nadu Magnesium and Marine Chemicals Limited are absorbed in respective posts having regard to consideration regarding suitability, eligibility and qualifications possessed by the individuals. As per the said G.O., the petitioner was absorbed as Helper in the third respondent Corporation on



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01.10.1997 and without any murmur he has accepted this post. Thereafter, he has filed a writ petition in W.P.No.17790 of 1998 before this Court and the said writ petition was allowed on 13.06.2008 and this Court issued a direction to the respondent Corporation to offer a post commensurate with his academic qualification and to provide all benefits arising out of the same within a period of eight weeks from the date of receipt of a copy of this order. However, this Court has not issued a direction to the respondent Corporation to give appointment to the petitioner from the date of his initial appointment. Thereafter, the petitioner has filed a contempt petition in Cont.P.No.1133 of 2008 and the same was closed, accepting the statement made by the respondent Corporation that the petitioner has been appointed as Junior Assistant with effect from 15.09.2009. Thereafter, the petitioner has filed another writ petition in W.P.(MD).No.14455 of 2010, for a direction to the respondents to treat the petitioner as Junior Assistant from the date of his original appointment as Helper in the second respondent Corporation from 01.10.1997 and to give additional increment and all monetary and consequential benefits including periodical review from the date of entry into service. The said prayer was rejected by this Court in



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paragraph No.5 of the order dated 14.03.2013. However, this Court issued a direction to the third respondent to look into the petitioner's representation dated 20.09.2010 and to pass appropriate orders on merits and in accordance with law. Thereafter, the present impugned order has been passed. In the order dated 14.03.2013, this Court has held that since the petitioner has accepted the Helper post in the year 1997 and joined duty, latter he cannot claim to appoint him as Junior Assistant. Hence, this Court cannot interfere with the impugned order passed by the second respondent dated 13.11.2013. Accordingly, this Writ Petition is dismissed. No costs.

13.12.2022

Index : Yes / No

Speaking Order : Yes / No

AKV

To

1. The Principal Secretary to Government,
Transport Department,
Government of Tamil Nadu Cum
Ex-officio Chairman,
All Tamil Nadu State Transport
Corporation Limited, Fort. St. George,
Chennai – 600 009.



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2. The Managing Director,
Tamilnadu State Transport Corporation (KUM) Ltd.,
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M.DHANDAPANI,J.

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