



W.P.(MD).No.17918 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.17918 of 2019

and

W.M.P.(MD).Nos.14368 and 14369 of 2019

S.Venkateswaran

... Petitioner

Vs.

1.The Secretary to Government,
Transport Department,
Secretariat,
Chennai – 9.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye-Pass Road,
Madurai – 16.

3.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Madurai Region,
Byepass Road,
Madurai – 16.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records connected the impugned order passed by the third respondent in ghh;it:kjiu/rl;lk;/W.P.(MD).No.22141/2017 dated 04.07.2019 and quash the same and consequently direct the respondents to promote the petitioner as



W.P.(MD).No.17918 of 2019

Driving Instructor earmarked for Graduate Drivers in terms of G.O.Ms.No.38 Transport Department dated 13.02.1997 which was implemented by the sister TamilNadu Transport Corporation(Villupuram)ltd dated 25.01.2013.

For Petitioner : Mr.S.Govindan

For R-1 : Mr.N.Muthuvijayan,
Additional Government Pleader.

For R-2 and R3 : Mr.J.Senthil Kumaraiah,
Standing Counsel.

ORDER

This Writ Petition is filed challenging the impugned order dated 04.07.2019 with consequential prayer to grant promotion as Driving Instructor earmarked for graduate drivers in terms of G.O.Ms.No.38 Transport Department dated 13.02.1997 as implemented by the Tamil Nadu Transport Corporation Limited, Virudhunagar dated 25.01.2013.

2. The petitioner is working as Driver and he is graduate in M.A., degree. He is claiming promotion as Driving Instructor as per the Common Service Rules which was earmarked for 25% of Conductors. The petitioner has relied on G.O.Ms.No.38 dated 13.02.1997. The relevant portion of the said Government Order is extracted hereunder:



W.P.(MD).No.17918 of 2019

“The Expert Committee on transport Sector constituted by the Government of Tamil Nadu in the government Order read above has submitted its report.

2. The Recommendation No.166 made by the Committee is as Follows:

"Drivers now recruited with S.S.L.C Qualification may be treated on par with Conductors while considering for promotion to posts like time-keeper, accident Inspector etc. A ratio of 3:1 between Conductors and drivers may be adopted for promotion".

3. After careful consideration, the Government Accept the recommendation extracted in para2 above for implementation after considering the service rules governing the Time-keeper/accident Inspector in State transport Undertakings.”

3. On perusing this Government Order, it is seen that there is no mentioned about granting promotion to Graduate Drivers at all. The said Government Order speaks only about the Drivers recruited with SSLC qualification may be treated on par with the Conductors while considering for promotion to the post of Time Keeper, Accident Inspector etc., and the ratio has been fixed as 3:1.

4. In the Common Service Rules, promotion was granted to Senior Conductors and 25% was earmarked to them. The relevant portion of the rule is extracted hereunder:



W.P.(MD).No.17918 of 2019

4. (a)

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(b) Junior Checking Inspector

(b) 25% of the promotions from among the Senior Conductors (Second Level) in the working group who possess a degree in Arts or science or commerce to the post of Junior Checking Inspector / Junior time Keeper (first Level) in the miscellaneous group.

The petitioner is claiming the Senior Conductors are eligible for Junior Checking Inspector post/Junior Time Keeper (First Level). Even this concession was granted only to the Conductors and not to the Drivers. Therefore, the petitioner is interpreting the G.O.Ms.No.38, where it is stated that the Drivers shall be kept on par with the Conductors and promotion have to be granted to the Drivers as well.

5. The said Government Order states that the Drivers and the Conductors shall be granted promotion to the post of Time Keeper/, Accident Inspector etc. The Common Service Rules grants promotion to Junior Checking Inspector / Junior Time Keeper. However, the post of Junior Checking Inspector was not stated in Government Order. Therefore, there is no clarity in the Common Service Rules and the said G.O.Ms.No.38.



W.P.(MD).No.17918 of 2019

6. The learned counsel appearing for the petitioner is relying on the information circulated under Right to Information Act, wherein, Vilupuram Drivers were granted Driving Instructor post. But in the Government Order as well as in the Common Service Rules, the Driving Instructor post was not mentioned at all. For the post of Driving Instructor, the Common Service Rules states to grant promotion from among the holders of the posts of Selection Grade Drivers (HTV) who have passed Standard 10th Standard or SSLC and who have been regular in attendance during the last three years.

7. After hearing the rival contentions, this Court is of the considered opinion that the petitioner is claiming Driving Instructor post, for which the Rule 59(1) of Common Service Rules as well as annexure have stated that holders of the posts of Selection Grade Drivers (HTV) who have passed Standard 10th Standard or old SSLC and who have been regular in attendance during the last three years are eligible. The petitioner is not entitled to the post, since the petitioner is not possessing the said qualification.

8. However, the petitioner is entitled to grant promotion under 59(b), where it has granted promotion to the Conductors. However, in the Common Service Rules, the Drivers were not included. This has been clarified in



W.P.(MD).No.17918 of 2019

G.O.Ms.No.38, wherein the Drivers shall be kept on par with conductors. On comprehensive reading of the Common Service Rules along with G.O.Ms.No. 38, then the Drivers are entitled to promotion to the post of Time Keeper, Accident Inspector Junior Checking Inspector etc., and the ratio of 3:1 ought to be followed, that is 3 Conductors and 1 Driver ought to be considered.

9. The learned counsel appearing for the petitioner submitted that G.O.Ms.No.38 was not implemented at all and this contention was refuted by the learned counsel appearing for the respondents.

10. Therefore, this Court is directing the respondents to consider the petitioner's case and also similarly placed persons like that of the petitioner who have served as Conductor / Drivers and grant promotion in the ratio of 3:1 to the post of Time Keeper, Accident Inspector, Junior Checking Inspector etc., as stated in G.O.Ms.No.38. The respondents shall consider the petitioner's case, if he is otherwise qualified based on the seniority, then the petitioner may be conferred with the promotion as Time Keeper or Accident Inspector with consequential benefits, as the case may be. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.17918 of 2019

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11. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

09.12.2022

Index : Yes / No
Internet : Yes/ No
Nsr

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W.P.(MD).No.17918 of 2019

S.SRIMATHY, J.

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W.P.(MD).No.17918 of 2019

09.12.2022