



W.P(MD)No.20083 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 23.12.2022

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20083 of 2021

P.Plus Moris

... Petitioner

versus

1. The Managing Director,
State Express Transport Corporation,
Pallavan Street,
Chennai – 2.
2. The General Manager (O&A),
State Express Transport Corporation,
Pallavan Street,
Chennai – 600 002.
3. The Assistant Manager (Salary
Distribution),
State Express Transport Corporation,
Pallavan Street,
Chennai – 600 002.
4. The Branch Manager,
State Express Transport Corporation Ltd.,
Kanyakumari Branch,
Kanyakumari,
Kanyakumari District.

... Respondents



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WEB COPY Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Communication in Ka.No. 442367/WA8/Sa.Pa./STC/2021, dated 19.07.2021 on the file of the Respondent No.3 and quash the same as illegal and consequently, direct the respondents to provide 4th review/increase in Basic Pay, i.e. Selection Grade Senior Driver on par with juniors with all monitory benefits within the time stipulated by this Court.

For Petitioner : Mr.S.Louis
For Respondents : Mr.R.Rajamohan

ORDER

The present writ petition has been filed against the Communication in Ka.No.442367/WA8/Sa.Pa./STC/2021, dated 19.07.2021, in and by which, the 3rd respondent informed the petitioner that he is not entitled for 4th review of salary.

2. The learned counsel appearing for the petitioner submits that the petitioner was appointed as a Driver in the respondent Transport



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Corporation in the year 1990 and his service was regularized in the year 1991. As per 12(3) settlement, the respondents are expected to review the pay scale once in six years and the petitioner was provided with 2nd review in the month of August 2006 and 3rd review should have been provided to him in the year 2012 and 4th review should have been provided in the year 2018. But, the petitioner was provided with 3rd review after filing a writ petition before this Court in W.P.(MD)No. 26592 of 2019. He further submits that one S.Thangappan, who was appointed on 13.07.1991, was a junior to the petitioner, but, he was provided with 4th review, i.e. Selection Grade Senior Driver and his basic pay was fixed at Rs.46,600/-, whereas, the petitioner was provided only 3rd review and his basic pay was fixed at Rs.39,700/-. Therefore, the petitioner made a representation on 23.02.2019 and further representation on 22.11.2019 to the respondents. Since there was no response, he has filed a writ petition before this Court in W.P. (MD)No.26592 of 2019. This Court, by order dated 13.12.2019, directed the first respondent therein to consider the representation dated



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22.11.2019, within a period of eight weeks. Thereafter, the impugned communication has been passed on 19.07.2021.

3. The learned counsel appearing for the respondents/Transport Corporation submits that the drivers are not having any promotion and as per 12(3) settlement, the first review is after six years and second review is after seven years from the first review and 3rd review is after seven years from the second review and 4th review is after 7 years from 3rd review. The first review was provided to the petitioner on 01.05.1997 and the second review was provided to him only on 01.05.2006. Since he has suffered punishment of stoppage of increment, the 3rd review was provided to him on 01.11.2015. Therefore, he is eligible for 4th review only in the year 2022 and even before that, he was retired on superannuation. Hence, by way of impugned communication, the petitioner was informed that he is not eligible for 4th review.



4. This Court considered the rival submissions made and also perused the materials placed on record.

5. By the impugned communication, the 3rd respondent has rejected the petitioner's representation dated 03.07.2021. The impugned communication states that the petitioner is not entitled for 4th review. The petitioner claims that he made representations repeatedly from 23.02.2019, but, the same were not considered and therefore, he was constrained to file a writ petition in W.P.(MD)No. 26592 of 2019, wherein, this Court, by order dated 13.12.2019, directed the first respondent therein to consider the representation dated 22.11.2019, within a period of eight weeks. Thereafter, the impugned communication has been made on the direction of the first respondent to the 3rd respondent.

6. The case of the petitioner is that he has completed 28 years of service and he is entitled for 4th review, i.e. Selection Grade Senior



Driver, as per the Tamil Nadu State Transport Corporation Service Rules. He also compared that his junior, S.Thangappan, has been provided with 4th review. But, the respondents claim that the petitioner has suffered punishment of stoppage of increment and therefore, he was not considered in time for the second and third review. The review is subject to punishment if any. Therefore, this Court is not inclined to interfere with the impugned communication.

7. However, the respondent Transport Corporation has not properly communicated the impugned communication to the petitioner. Therefore, the petitioner was constrained to file two writ petitions. The conduct of the respondent Transport Corporation has to be deprecated. Even this impugned communication, which is the subject matter of the writ petition, does not disclose the reasons for rejection of petitioner's claim. If reasons are properly stated in the Communication, the petitioner might have avoided the filing of present writ petition. Considering the manner in which the petitioner's representation was



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considered by the respondent Transport Corporation, this Court is inclined to dismiss the writ petition, with cost of Rs.5,000/-, which has to be paid by the Transport Corporation to the Petitioner.

8. Accordingly, the Writ Petition is dismissed with cost of Rs.5,000/- (Rupees five thousand only) which has to be paid by the Transport Corporation to the petitioner. No costs.

23.12.2022

Index : Yes / No
Internet: Yes / No
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To

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