



W.P.(MD).No.8157 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.8157 of 2017

S.Rajendran

... Petitioner

Vs.

1.Tamil Nadu State Corporation (Madurai) Division,
Represented by the General Manager,
Byepass Road,
Madurai – 625 010.

2.Tamil Nadu State Transport Corporation (Kumbakonam) Division,
Represented by its Branch Manager Pudukkottai,
Pudukkottai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned letter of communication passed by the first respondent dated 06.03.2015 and quash the same as illegal.

For Petitioner : Mr.R.Aravindan

For R-1 : Mr.A.Jeyaram,
Standing Counsel.

For R-2 : Mr.D.Sivaraman,
Standing Counsel.



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ORDER

This Writ Petition is filed to quash the impugned order dated 06.03.2015.

2. The brief facts as stated in the affidavit are that the petitioner was working as Assistant Engineer under the first respondent Corporation and had filed Writ Petition in W.P.(MD).No.9977 of 2014 seeking to fix the seniority to the petitioner as Senior Assistant Engineer with other monetary benefits payable from 30.06.2013 i.e. on the date of petitioner's retirement. The said Writ Petition was disposed of vide order dated 23.06.2014 directing the respondents to consider the petitioner's representation within a period of 12 weeks. Since the respondents have not considered, the petitioner filed Contempt Petition in Cont.P.(MD).No.1635 of 2014. In the meanwhile, a letter dated 20.08.2014 was sent to the petitioner, wherein, it is stated that the petitioner was transferred from Pudukkottai on 02.06.2005 on deputation and therefore all the claims have to be considered by the second respondent and the same was informed to the Court. Hence, the Contempt Petition was closed vide order dated 22.01.2015. Subsequently, the petitioner received a letter dated



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27.01.2015 from the second respondent stating that the petitioner was transferred to the first respondent Corporation on permanent basis on 03.06.2008 and worked only with the first respondent till the date of his retirement. Therefore, the petitioner was directed to approach only the first respondent pertaining to the claim regarding the benefits.

3. The contention of the petitioner is that the first respondent has considered the petitioner only as permanent employee and the position was confirmed vide order dated 30.06.2009. In spite of the same, the first respondent has informed this Court without any reference to his status, by giving false information which made this Court to close the Contempt Petition. Hence, the petitioner is before this Court by filing this Writ Petition.

4. The second respondent has filed a counter stating that the petitioner was appointed as Junior Engineer (Fresh Entrant) through 18(1) settlement on 10.05.1996 in the second respondent Corporation. The petitioner was promoted as Assistant Engineer on 10.05.2002 and has to be promoted as Senior Assistant Engineer on 10.05.2008. In the meanwhile, the petitioner was transferred to the first respondent Corporation on 03.06.2005 on deputation



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basis. He was permanently absorbed in the first respondent Corporation with effect from 03.06.2008. Therefore, the contention of the second respondent is that the first respondent ought to have considered the case of the petitioner for promotion as Senior Assistant Engineer with effect from 10.05.2008. But the petitioner was having disciplinary proceedings and it was finalized on 15.06.2008, imposing a punishment of Severe Record Warning in the first respondent Corporation. Therefore, the petitioner was permanently absorbed as Assistant Engineer on 03.06.2008 in the first respondent Corporation and the first respondent Corporation is the authority to give promotion as per the petitioner's eligibility and vacancy. In this regard, a letter has been sent to the first respondent Corporation on 24.06.2022. The petitioner has filed this Writ Petition to quash the impugned proceedings of the first respondent dated 06.03.2015. Therefore, the second respondent is only a formal party. Hence, the second respondent prayed to dismiss this Writ Petition, as far as the second respondent is concerned.

5. The first respondent has filed a counter stating that the petitioner on his own request worked as Assistant Engineer in the respondent Corporation on deputation basis during the period from 02.06.2005 to 03.06.2008. The



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petitioner filed W.P.(MD).No.9977 of 2014 seeking to fix the seniority and the same was disposed of vide order dated 23.06.2014, directing the respondents to consider and pass orders. After considering the case of the petitioner, an order was passed on 20.08.2014. In the meanwhile, the petitioner filed Contempt Petition and the same was closed based on the above said office order. After implementation of Sixth Pay Commission Recommendation in the respondent Corporation as per G.O.Ms.No.142, Transport dated 21.08.2008, the time bound promotions as Senior Assistant Engineer and Selection Grade Assistant Engineer were cancelled. Hence the petitioner was not considered for the time bound promotion. Moreover, the petitioner was a inter-corporation transferred employee who seeks his benefits from the former employer namely, Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Pudukkottai. The petitioner could not make his claim before the first respondent after his retirement, since there is no employer-employee relationship after the retirement of the employee. Hence, the first respondent prayed to dismiss this Writ Petition.



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6. Heard Mr.R.Aravindan, learned counsel for the petitioner and Mr.A.Jeyaram, learned Standing Counsel for the first respondent and Mr.D.Sivaraman, learned Standing Counsel for the second respondent and perused the records.

7. It is an admitted fact that the petitioner was transferred from Pudukottai to Madurai on deputation on May, 2005. Even though the petitioner was transferred on deputation, the lien of the employment was maintained by Pudukottai Corporation. Thereafter, the petitioner was made as permanent employee on 03.06.2008. Hence, the lien over the post in the Pudukottai was cut from the date 03.06.2008. Madurai region has initiated disciplinary proceedings and the same had ended in punishment of “Severe Record Warning” on 15.06.2008. Therefore, the petitioner is not entitled to any promotion until 15.06.2008. Since the petitioner was made permanent from 03.06.2008 in the Madurai region, then the Madurai region is the appropriate authority to consider the case of the petitioner for granting upgradation. The time bound promotion and upgradation was cancelled vide G.O.Ms.No.142, Transport dated 21.08.2008. Since the petitioner is entitled to time bound promotion prior to this Government Order, the claim of the petitioner ought to



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be considered. Therefore, the Madurai region is the appropriate authority because the petitioner was made permanent on 03.06.2008 and disciplinary proceeding was ended on 15.06.2008. From 15.06.2008 to 20.08.2008, the petitioner ought to have been considered for “time bound promotion”.

8. Therefore, the impugned order is quashed and the first respondent, Madurai region is directed to grant time bound promotion to the petitioner. However, the petitioner is not entitled to any monetary benefits. The effect of time bound promotion shall be granted in the pensionary benefits. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is allowed. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes/ No
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To
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1. The General Manager,
Tamil Nadu State Corporation (Madurai) Division,
Byepass Road,
Madurai – 625 010.

2. The Branch Manager Pudukkottai,
Tamil Nadu State Transport Corporation (Kumbakonam) Division,
Pudukkottai.



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S.SRIMATHY, J.

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