



W.P.(MD)No.18640 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.18640 of 2016

K.Usharani

... Petitioner

VS.

1. The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Bye Pass Road, Madurai – 625 016.

2. The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Madurai Region,
Bye Pass Road, Madurai – 625016.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus***, calling for the records pertaining to the impugned order passed by the 2nd Respondent in Parvai/Sattam/WP(MD) No.10104/2009 dated 12.08.2014, quash the same and direct the Respondents to redesignate the petitioner as Junior Assistant from the date of her initial



W.P.(MD)No.18640 of 2016

WEB COPY

appointment as Clerk cum Typist (Company Apprentice) on par with 73 employees of Tamil Nadu state Transport Corporation Limited, Salem and 35 employees of this Respondents Corporation, who were having Degree qualification and similarly placed persons have been redesignated as Junior Assistant with retrospectively from date of their initial appointment as Clerk, after deducting one year as Trainee period and consequently to extend all the consequential monetary, service and promotion benefits etc., to the petitioner.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.J.Senthil Kumaraiah,
Standing Counsel

ORDER

This Writ Petition is filed for issuance of *Writ of Certiorarified Mandamus*, to quash the impugned order passed by the 2nd Respondent in Parvai/Sattam/WP(MD) No.10104/2009 dated 12.08.2014, and direct the Respondents to redesignate the petitioner as Junior Assistant from the date of her initial appointment as Clerk cum Typist (Company Apprentice) on par with 73 employees of Tamil Nadu State Transport Corporation Limited, Salem and 35 employees of this Respondents Corporation, who were having Degree qualification and similarly placed persons have been redesignated as Junior



W.P.(MD)No.18640 of 2016

WEB COPY

Assistant with retrospectively from date of their initial appointment as Clerk, after deducting one year as Trainee period and consequently to extend all the consequential monetary, service and promotion benefits etc., to the petitioner.

2. The petitioner has joined service in the Respondents Corporation, with effect from 01.04.1987 and was regularised as Clerk cum Typist, with effect from 01.04.1989. After periodical promotion, the petitioner had served as Senior Assistant and retired from service on 13.09.2016 on attaining the age of superannuation.

3. The contention of the petitioner is that, at the time of initial appointment as Clerk cum Typist, the petitioner was having B.A. Degree Qualification. Hence, the petitioner was redesignated as Junior Assistant at a later date, instead of redesignating with effect from the date on which the petitioner had been initially appointed as Clerk cum Typist (Company Apprentice). As per 12(3) settlement, dated 24.03.1977, the degree holders have to be appointed as Junior Assistant in the 1st level and the non-degree holders have to be appointed as Clerk/Record Clerk in the 1st level. Some 73 employees



W.P.(MD)No.18640 of 2016

WEB COPY

having Degree Qualification have initially appointed as Clerk/Record Clerk, subsequently, redesignated as Junior Assistant, retrospectively. There were several such representations to the respondents to redesignate from the date of initial appointment and the issue was considered in W.P.(MD)No.15719 of 1999 and the same was allowed. Subsequently, Review Application was filed and the same was dismissed on 15.04.2008, directing the respondents to extend the benefit as done in M/s.Anna Transport Corporation Limited, Salem, within a period of eight weeks. The respondents have complied with the order in the identical situation.

4. This Court has also passed an order, in batch of Writ Petitions in W.P.(MD)No.3700 of 2009, W.P.(MD)No.3814 of 2009, W.P.(MD)No.5675 of 2009 and W.P.(MD)No.6639 of 2009. In another Writ Petition has also, this Court granted relief in W.P.(MD)No.10104 of 2009. In one more W.P.(MD)No. 11076 of 2014, this Court, vide order, dated 12.10.2015, has issued direction to the respondents to grant the relief. The relevant portion is extracted hereunder:

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“In any event, when the learned counsel appearing for the petitioners have consistently requested this Court that the petitioners are not pressing their



W.P.(MD)No.18640 of 2016

WEB COPY

benefit of back wages from date of acquisition of decree and they are asking the notional promotion for the purpose of promotion and seniority pension alone, this Court has no hesitation to direct the respondent to re-designate the petitioners as Junior Assistant from the date of acquisition of degree without granting benefit of back-wages. Accordingly, the respondent is directed to redesignate all the petitioners as Junior Assistant, from the date of acquisition of degree without granting benefit of back-wages.”

5. In the counter, the respondents have stated that the petitioner has already attained superannuation on 31.01.2016 and hence, there is no employer and employee relationship and therefore, the petitioner cannot be redesignated, as held in the Review Application. Therefore, the respondents prayed to dismiss the Writ Petition.

6. Heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.J.Senthil Kumaraiah, learned Standing Counsel appearing for the respondents Corporation. Perused the material documents available on record.



W.P.(MD)No.18640 of 2016

WEB COPY

7. Admittedly the petitioner has already attained superannuation on 31.01.2016. In such circumstances, the petitioner is entitled notional promotion alone. Since the other Corporations have granted the same relief, the petitioner is also entitled for the said benefits.

8. In view of the foregoing reasons, this Court directed the respondents to afford notional promotion and the effect shall be granted in pensionary benefits alone. It is made clear that the petitioner is not entitled to any other benefits and monetary benefits. The effect can be done only for the pensionary benefits alone.

9. Accordingly, this Writ Petition stands disposed of. No Costs.

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14.11.2022



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W.P.(MD)No.18640 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.18640 of 2016**

14.11.2022