



W.P.No.295 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.295 of 2020

C.Gunasekaran

... Petitioner

Vs.

1.The Tamil Nadu State,
Rep. by its Principal Secretary to Government,
Transport Department,
Secretariat, Chennai 600 009.

2.The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Rep by its Managing Director,
Railway Station New Road,
Kumbakonam.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to deemed to promote the petitioner as Driving Instructor with effect from 01.06.2016 from the date of his juniors were promoted and consequently, direct the respondents to revise the pension.



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For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.G.Nanmaran, SGP for R1
Mr.C.Senapathy, Standing Counsel for R2

ORDER

This Writ Petition has been filed seeking issuance of Writ of Mandamus to direct the respondents to promote the petitioner as Driving Instructor with effect from 01.06.2016 from the date when his junior promoted and consequently, to revise the pension.

2. Heard Mr.D.Soundar Raj, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader for R1 and Mr.C.Senapathy, learned Standing Counsel for R2.

3. The facts of case in brief are as follows:

The petitioner was working as a Driver with the second respondent Corporation from 11.01.1986 and retired from service on 31.03.2018 without prejudice to the criminal proceedings pending against him. No disciplinary proceedings has been taken against the petitioner so far. The petitioner has already filed a Writ Petition in W.P.No.17006 of 2018 for



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seeking direction to settle the terminal benefits. In view of the order passed in the said Writ Petition on 11.04.2019, the second respondent settled the terminal benefits due to the petitioner. However, the petitioner is said to have been eligible for getting promotion as Driving Instructor with effect from 01.06.2016 from the date when his junior promoted and for revision of pension. Hence the petitioner has filed this Writ Petition seeking the above prayer.

4. The learned Standing Counsel for the second respondent submitted that since criminal proceedings were pending against the petitioner, the petitioner is not entitled for promotion as claimed by him.

5. In a case having similar such facts, this Court has passed an order in W.P.(MD) No.1611 of 2018 on 22.02.2018. The relevant paragraphs are extracted hereunder:

"2. When the matter was taken up for disposal, the learned Standing counsel appearing for the respondent Corporation pointed out that the petitioner is facing a criminal prosecution in Crime No.25 of 2003. It is a case



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of job-racketing and there are as many as 62 accused and the petitioner's rank is A38.

3.Considering the pendency of the criminal case involving the official duties of the petitioner, this Court cannot grant the reliefs as sought for. Pendency of a criminal case would clearly be a bar for consideration of the case of promotion. Since no right has been made out, this Court cannot grant any relief to the petitioner.

4.The petitioner pointed out that one Kalimuthu who was also implicated in the very same criminal case, has been granted promotion.

5.The learned standing counsel appearing for the respondent Corporation pointed out that the said Kalimuthu has turned a new leaf by becoming an approver. In any event, there cannot be a claim of equality in illegality. That apart, the said Kalimuthu is senior to the petitioner. Therefore, taking into all the circumstances, this Court has to necessarily reject this writ petition.

6.Accordingly, this Writ Petition stands dismissed. No costs."

6. In the light of the above order passed by this Court, this Writ Petition is dismissed. However, liberty is granted to the petitioner to



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renew his request after the criminal proceedings are disposed. No costs.

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Index : Yes

Internet : Yes/No

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R.N.MANJULA, J.

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To

- 1.The Principal Secretary to Government,
Transport Department,
Secretariat, Chennai 600 009.
- 2.The Managing Director,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Railway Station New Road,
Kumbakonam.

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