



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.13215 of 2021
& W.P. Nos.6738 & 21043 of 2014
and W.M.P. Nos.14016 & 14017 of 2021
and M.P. Nos.1 & 1 of 2014

W.P. No.13215 of 2021

M.Thenmozhi

... Petitioner

/vs/

The Managing Director,
Tamil Nadu State Road Transport Corporation (VPM) Ltd.,
Villupuram,
Tamil Nadu.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in respect of the Charge Memo with No.Ka.Ku.No.429/1329/D6/Tha.Na.A.Po.Ka./2009 dated 19/06/2009, the enquiry report with No.Nil dated 18.08.2009 which has been informed to the petitioner through the Memo dated 06.11.2009, the order imposing the punishment with No.Ka.Ku.No.429/1329/D6/Tha.Na.A.Po.Ka/2009 dated 02.08.2010 and the order with LT.No.33024/L12/TNSTC(V)/2017 dated 30.03.2019



by the respondent and to quash the same and consequently to direct the respondent to restore the basic pay of the petitioner to Rs.15,600/- with effect from the date on which the punishment was imposed with all other consequential benefits including difference of wages and further promotion.

W.P. No.6738 of 2014

M.Thenmozhi

... Petitioner

/vs/

1.The Managing Director,
Tamil Nadu State Road Transport Corporation (VPM) Ltd.,
Villupuram,
Tamil Nadu.

2.Manivanan
3.Vijayasankar
4.Govindan

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Declaration to declare that the promotion of respondent 2 to 4 as Assistant Manager is illegal and invalid and consequent to direct the first respondent to consider and promote the petitioner to the post of Assistant Manager with effect from the date on which the third respondent is promoted with all other consequential benefits including arrears of wages, seniority, further promotions etc.



W.P. No.21043 of 2014

WEB COPY

M.Thenmozhi

... Petitioner

/vs/

The Managing Director,
Tamil Nadu State Road Transport Corporation (VPM) Ltd.,
Villupuram,
Tamil Nadu.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent with No.க.கு.எண்.16158/ஊநி1/தநாஅபோக(வி)/2012 dated 18.7.2014 and to quash the same.

For Petitioner ... Mr.V.Ajayakumar
in all W.Ps

For Respondents ... Mr.M.Aswin
in all W.Ps

ORDER

W.P.No.13215 of 2021 has been filed to call for the records of the respondent in respect of the Charge Memo with No.Ka.Ku.No.429/1329/D6 /Tha.Na.A.Po.Ka./2009 dated 19/06/2009, the enquiry report with No.Nil dated 18.08.2009 which has been informed to the petitioner through the Memo dated 06.11.2009, the order imposing



the punishment with No.Ka.Ku.No.429/1329/D6/ Tha.Na.A.Po.Ka/2009 dated 02.08.2010 and the order with LT.No.33024/L12/ TNSTC (V)/2017 dated 30.03.2019 by the respondent and to quash the same and consequently to direct the respondent to restore the basic pay of the petitioner to Rs.15,600/- with effect from the date on which the punishment was imposed with all other consequential benefits including difference of wages and further promotion.

W.P.No.6738 of 2014 has been filed to declare that the promotion of respondents 2 to 4 as Assistant Manager is illegal and invalid and consequently to direct the 1st respondent to consider and promote the petitioner to the post of Assistant Manager with effect from the date on which the 3rd respondent is promoted with all consequential benefits including arrears of wages, seniority, further promotion etc.

W.P.No.21043 of 2014 has filed to call for the records of the respondent with No.க.கு.எண்.16158/ஊநி/தநா அபோக(வி)/2012 dated 18.07.2014 and to quash the same.

2.The petitioner was working as Assistant Engineer in the Pattukottai Azhagiri



Transport Corporation, Vellore and subsequently she was transferred to the respondent Corporation. During her service, a disciplinary proceeding has been initiated against her on the following charges:

- 1. You have been absent for duty since 01.06.2009.*
- 2. You have acted in indiscipline manner and inattentive in service.*
- 3. You have been the cause for the affecting of the duties of the Corporation.*

3. At the conclusion of the disciplinary proceedings, she was terminated from the service. Subsequently, the petitioner filed an appeal. In the appeal, an order has been passed on 02.08.2010, by modifying the punishment. In view of the said order, the punishment of removal of service has been modified to the reduction of the scale of pay to the minimum pay in the same cadre for five years. However, on 17.10.2012, the order was revised and the reduction of five years has been reduced to two years. On 16.01.2014, the order has been once again modified and the punishment of reduction of pay of five years was restored. The reasons stated in the above said order for restoration is that the order dated 17.10.2012 has been passed by the Managing Director who is not above in the rank of the authority who had passed the appeal



order on 02.08.2010.

WEB COPY

4.The petitioner had filed a writ petition in W.P.No.2929 of 2014 challenging the said order and the order has been passed by dismissing the writ petition. The petitioner had filed a Writ Appeal in W.A.No.853 of 2014 challenging the said order and the writ appeal was also dismissed on 21.07.2014 by giving liberty to file a review application. However, the petitioner did not file any review application but has given only a representation.

5.Once again, the petitioner had filed a writ petition in W.P.No.33024 of 2017 by challenging very same order to restore the basic pay of the petitioner with effect from the date on which the punishment was imposed with all other consequential benefits including difference of wages. In the writ petition, it has been observed that the petitioner did not file review application, but given only a representation. Subsequently, the petitioner filed a writ appeal challenging the said order in W.A.No.2613 of 2018 and in which an order has been passed on 07.02.2019 with a direction to file a revision petition.

6.The petitioner had filed a revision petition, subsequent to which the impugned order dated 30.03.2019 has been passed, which is extracted hereunder:



WEB COPY

As per the direction of the Hon'ble High Court, Madras Tmt.M.Thenmozhi, Senior Assistant Engineer, TS0213 submitted her review petition vide reference 2nd cited.

The same has been placed before 212th Board Meeting held on 05.03.2019 and the Board has analysed the individual petition and Hon'ble High Court of Madras order and came conclusion that the earlier board decision of similar case in Resolution No.60 of the 188th Board Meeting is hold good and finally the Board concluded that the claim made by the individual to consider the Revision Petition cannot be considered in accordance with rule in force.

7. Aggrieved over the said order, this writ petition has been filed. Since the recovery the proceedings have been initiated, another writ petition in W.P.No.21043 of 2014 has been filed. The petitioner has filed yet another writ petition in W.P.No.6738 of 2014 for issuing a writ of declaration to declare that the promotion of the respondents 2 to 4 to Assistant Manager is illegal and invalid and consequently, direct the first respondent to consider and promote the petitioner to the post of Assistant Manager with effect from the date on which the 3rd respondent was promoted with all other consequential benefits including arrears of wages, seniority, further promotion



etc., and also challenging the recovery order.

WEB COPY

8.The learned counsel for the petitioner submitted that the order dated 30.03.2019 is not a speaking order and the authority concerned did not consider the revision petition filed by the petitioner.

9.The learned Standing Counsel appearing on behalf of the respondents submitted that the impugned order dated 30.03.2019 has been passed pursuant to the 212th Board Meeting held on 05.03.2019.

10.The learned counsel for the petitioner submitted that the petitioner has not been given with a copy of the impugned resolution which was instrumental to the rejection of her revision petition. The petitioner had sent a request by requesting a copy of the resolution. So far, it was not served upon her.

11.In the impugned order, it is seen that the similarly placed case of some other person has been considered for arriving at the conclusion of confirming the punishment of the appellate authority. No doubt, the order dated 30.03.2019 is cryptic and lacking in material particulars. The petitioner happened to be in leave in



view of various health conditions consequent to her delivery and child care. The said grounds could have been considered in the review petition. The petitioner has been repeatedly giving representation to the authorities and filing petition before this Court. The Court has issued interim orders not to suffer the punishment.

12.As the petitioner felt that five years of reduction of pay was inappropriate to the charges, she was fighting it by way of filing revision petition. The Board considered her revision and passed a non-speaking order. It is not known why in the opinion of the Board, the punishment of five years of stoppage should be upheld. Since the impugned order does not state any reasons and the petitioner has also not been given any material particulars like the punishment imposed upon the similarly placed persons. I am of the view that it is appropriate to reduce the punishment to reduction of pay to minimal pay for two years from five years.

12.Hence, the impugned order dated 30.03.2019 alone is set aside and punishment is modified to reduction of the pay for the minimum period of two years. Accordingly, W.P.No.13215 of 2021 is disposed of.

13.Consequently, the proceedings dated 18.07.2014 issued for recovery of the



remaining three years reduction is also set aside. Accordingly, W.P.No.21043 of 2014 is allowed.

14. Since the petitioner had already suffered the punishment of reduction of pay for two years and at the time of consideration of promotion to the next level, there was no currency of punishment, the respondents ought to have considered her for promotion. Hence, the respondents are directed to promote her notionally from the date of completion of two years punishment and to give notional increment and consequential service benefits and to grant monetary benefits from the date of the order of this Court. Accordingly, W.P.No.6738 of 2014 is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

20.11.2023

Index: Yes / No
Speaking order / Non-speaking order
ssr



To:

The Managing Director,
Tamil Nadu State Road Transport Corporation (VPM) Ltd.,
Villupuram,
Tamil Nadu.



WEB COPY



R.N.MANJULA ,J.

SSR

W.P. No.13215 of 2021
& W.P. Nos.6738 & 21043 of 2014
and W.M.P. Nos.14016 & 14017 of 2021
and M.P. Nos.1 & 1 of 2014

20.11.2023