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WP.No.35324/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.35324/2016

M.Alagapuri

... Petitioner

Versus

1.The Managing Director,
Tamil Nadu State Transport
Corporation [VPM] Ltd.,
No.3/137, Salamedu
Valuthareddy Post
Villupuram 605 602.

2.The Assistant Manager
[Pay and Administration]
Tamil Nadu State Transport Corporation
[Villupuram] Ltd., No.3/137,
Salamedu, Valuthareddy Post
Villupuram 605 602.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records connected in Ka.Ku.No.30077/Pay.Admn6/TNSTC[V]/2016 dated 25.05.2016 passed by the 2nd respondent and quash the same and direct the respondents to restore the increment due date as 01.02.1988 instead of



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01.08.1988 and grant 5th review, further promotion as General Foreman and pay arrears.

For Petitioner : Mr.G.Elanchezhian
For Respondents : Mr.M.Aswin, Standing counsel

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to the order impugned herein, passed by the 2nd respondent, Assistant Manager [Pay and Administration], Tamil Nadu State Transport Corporation, Villupuram, dated 25.05.2016 and to quash the same and to direct the respondents to restore the increment due date as 01.02.1988 instead of 01.08.1988 and grant 5th review, further promotion as General Foreman and arrears and such other benefits to the petitioner herein.
- (2) The petitioner had earlier approached this Court by filing WP.No.8669/2016. The only respondent therein was the Managing Director, Tamil Nadu State Transport Corporation, Villupuram. The said respondent is shown as the 1st respondent in the present writ petition.
- (3) That particular writ petition was filed in the nature of a mandamus



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seeking a direction to the said respondent / Managing Director, Tamil Nadu State Transport Corporation, Villupuram, to examine the representation given by the petitioner on 21.12.2015 with respect to the grant of increment and other benefits from 01.02.1987 onwards. It must be stated that the petitioner originally joined the respondent / Transport Corporation, Villupuram as Helper Trainee on 23.01.1981. His services were regularised on 01.03.1983 in the post of Junior Tradesman. He was promoted as Foreman on 01.05.2013. During 1984, when he was Junior Tradesman, he was issued with a punishment order of postponement of increment for six months without cumulative effect by an order dated 01.01.1986. The said increment was also recovered from the salary of the petitioner herein. The reason for submission of the representation by the petitioner which was the subject matter of the earlier writ petition in WP.No.8669/2016, was that if the increment had been directed to be cut for a period of six months with cumulative effect, then the next increment date which fell naturally due on 01.08.1987, was correctly postponed. However, since that particular order was without



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cumulative effect, the further increment should have been given again on 01.02.1988 onwards. Claiming that however, the date 01.08.1988 was maintained by the respondents, the petitioner had given a representation.

- (4) In that writ petition, a learned Single Judge of this Court on examining the facts, had passed the order as follows:-

"3.This Court, considering the limited prayer sought for and also the fact that the petitioner retired from service, without going into the merits of the matter, directs the respondent to consider the pending representation of the petitioner, after affording reasonable opportunity of personal hearing to the petitioner, if necessary and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order, on merits and in accordance with law.

4.The writ petition is disposed of accordingly.

No costs."

- (5) A specific direction was given to the respondent therein/Managing Director, TNSSTC, Villupuram, to grant an opportunity of personal hearing to the petitioner herein and pass appropriate orders. The



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Impugned Order had however been passed by the 2nd respondent herein, Assistant Manager, TNSCTC at Villupuram. There was no direction issued to the said 2nd respondent herein to pass the order impugned. The order was directed only against the Managing Director.

(6) The respondents are not able to justify as to how the Assistant Manager could pass orders and step into the shoes of the Managing Director, when still holding the post of Assistant Manager. There is also no document produced to show that there was delegation to the Assistant Manager by the Managing Director. There was no representation made in the previous writ petition and it was not recorded by the Court that the Managing Director can pass necessary orders on the representation given by the petitioner either by himself or through any responsible/authorised officer. That being the case, the order impugned will necessarily have to be set aside on that particular ground of an incompetent officer having passed the said order.

(7) The learned counsel for the petitioner also laid stress on the fact that



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opportunity was not granted before passing the Impugned Order. Denial of opportunity is justified by the learned Standing counsel appearing for the respondents that opportunity is not required since the matter was based on records. If it is based on records, then, it would be very evident that when an increment is cut for six months, it is naturally postponed for six months from 01.02.1987 till 01.08.1987 and since it is so postponed without cumulative effect, the next increment would be restored back to the year when it was originally due, namely, 01.02.1988. Therefore, even a cursory reading of the entire records shows that the respondents had misguided themselves in passing the order and have taken a deliberate stand to deny an opportunity of personal hearing to the petitioner herein. I am not able to understand as to how the respondents state that opportunity was not required. Principles of natural justice are inbuilt in administrative law and there cannot be an order passed without affording an opportunity to the aggrieved person specifically when there is a direction of the High Court to grant such opportunity. This is a case where costs must be imposed on the respondents.



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(8) The writ petition stands **allowed** and the Impugned Order of the 2nd respondent dated 25.05.2016 is set aside. The respondents are directed to grant necessary increment with effect from 01.02.1988 and issue necessary proceedings granting the financial benefits to the petitioner herein within a period of four weeks from the date of receipt of a copy of this order.

(9) In view of the deliberate non-grant of opportunity by the respondents, though there was a specific direction by this Court, the respondents are directed to **pay costs of Rs.10,000/- [Rupees Ten Thousand only] to the Tamil Nadu State Legal Services Authority, Chennai, within a period of two weeks from the date of receipt of a copy of this order.** No costs.

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AP

Internet : Yes



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C.V.KARTHIKEYAN, J.,

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