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W.P.No.22761 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13..09..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.22761 of 2023

Tmt.R.Kalaivani

..... Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Transport-II) Department,
Secretariat, Chennai 600 009.

2.Thiru.K.Balashanmugam,
Joint Transport Commissioner,
Chepauk, Chennai 600 005.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to promote the petitioner's late husband Thiru.R.Raghuraman, Deputy Transport Commissioner (retired) notionally to the post of Joint Transport Commissioner from the post of Deputy Transport Commissioner from the date on which his junior Thiru.K.Balashanmugam, the 2nd respondent was promoted to the post of Joint Commissioner on 08.06.1998 in compliance with sub-clause 1 of Part A-II of Schedule XI of the Tamil Nadu Government Servants (Conditions of Service) Act and grant all monetary benefits including pensionary benefits entitled to her late husband and disburse the same to the petitioner.



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For Petitioner : Mr.A.Ganesan

*For Respondent (s) : Mr.P.Baladhandayutham,
Special Government Pleader
for R1*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus directing the 1st respondent to give notional promotion to late R.Raghuraman,, Deputy Transport Commissioner (retired) and pass on the consequential monetary benefits arising therefrom.

2. It is the case of the petitioner that her husband got retired from the services of the respondent department. Though he was retired as Regional Transport Commissioner. It is the further case of the petitioner that while her husband was in service, he was proceeded with departmentally and was placed under suspension. There was also a criminal case registered against him. Therefore, her husband was denied promotion and was also not allowed to retire from service. Later on, her husband was acquitted from the criminal case in C.C.No.22 of 1997 on the file of XI Additional Sessions Judge (Special Judge), Chennai, by judgement dated 29.01.2016. Thereafter, her husband submitted a representation dated 08.06.20216 to the 1st respondent seeking promotion to the post of Deputy Transport Commissioner and Joint Transport Commissioner notionally from the date on which his junior was promoted. That



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was not considered. Her husband died on 08.12.2020. Thereafter, the 1st respondent by his order dated 03.05.2021 promoted the petitioner's husband to the post of Deputy Transport Commissioner alone and her husband was not promoted to the post of Joint Transport Commissioner. She was not informed the reason for denial of promotion to her husband as Joint Transport Commissioner. Therefore, she sent a representation on 06.12.2021 to the 1st respondent. The grievance of the petitioner is that there was no reply from the 1st respondent to her representation till date. Hence, the writ petition.

2. Heard both sides.

3. During the course of arguments, when this court pointed out that no positive direction as prayed for in the writ petition could be granted, the learned counsel for the petitioner submitted that it would suffice, if a direction is given to the 1st respondent to consider the representation made by the petitioner dated 06.12.2021 followed by reminders dated 05.01.2022, 03.07.2022 & 05.01.2023 on merits and in accordance with law.

4. The learned Special Government Pleader has got no serious objection in issuing such a direction as sought by the learned counsel for the petitioner.

5. Considering the submissions made on either side, without going into



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the merits of the claim of the petitioner, this court directs the 1st respondent to consider the representations of the petitioner 06.12.2021, 05.01.2022, 03.07.2022 and 05.01.2023 for notional promotion to her late husband on its own merits and in accordance with law and pass appropriate orders thereon within a period of three months from the date of receipt of a copy of this order.

This writ petition is disposed of accordingly with the above directions. No costs.

13..09..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

- 1.The Secretary to Government,
Home (Transport-II) Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
- 2.Thiru.K.Balashanmugam,
Joint Transport Commissioner,
Chepauk, Chennai 600 005.



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N.SATHISH KUMAR.J.,

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