



W.P.(MD)Nos. 13305 & 13306 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos. 13305 & 13306 of 2019

T. Murugesan

... Petitioner in
W.P(MD)No.13305 of 2019

S. Ragavan

... Petitioner in
W.P(MD)No.13306 of 2019

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Byepass Road,
Madurai – 16.

2. The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Dindigul Region,
Dindigul – 4.

3. The Administrator,
Tamil Nadu State Transport Corporation Employees
Pension Fund Trust,
Pallavan Salai, Chennai – 2.

...Respondents in both the Petitions



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COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, directing the respondents to promote the petitioners as Superintendent, the date on which the petitioners' six juniors R.Jeyapaul, S.Latha, V.Ravi, S.Kamaldeen, A.Sakthi and K.Ravichandran got promoted on 09.03.2017 in the light of the Judgment of this Court in W.P.No.4518 of 2015 dated 03.11.2016 which was confirmed by the Division Bench Judgment of this Court in W.A.No.336 of 2017 by order, dated 12.04.2017 with monetary, service and pensionary benefits along with 18% interest.

In Both the Writ Petitions:

For Petitioners	: Mr.S.Govindan
For R-1 & R-2	: Mr.J.Senthil Kumaraiah, Standing Counsel
For R-3	: Mr.S.C.Herold Singh Standing Counsel

COMMON ORDER

These writ petitions have been filed seeking direction to the respondents to promote the petitioners as Superintendent, the date on which the petitioners' six juniors R.Jeyapaul, S.Latha, V.Ravi, S.Kamaldeen, A.Sakthi and K.Ravichandran got promoted on 09.03.2017 in the light of the Judgment of this



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Court in W.P.No.4518 of 2015, dated 03.11.2016 which was confirmed by the Division Bench Judgment of this Court in W.A.No.336 of 2017 by order, dated 12.04.2017 with monetary, service and pensionary benefits along with 18% interest.

2. The issues involved in these Writ Petitions are one and the same and hence both the writ petitions are taken up together and this common order is passed.

3. The petitioners have joined service as Clerk in the respondents Corporation, with effect from 18.02.1987 and 16.07.1986, respectively, subsequently promoted as Junior Assistant. Thereafter, periodically the petitioners were granted promotion and they retired from service on 31.03.2019 & 30.04.2017 respectively, on attaining superannuation.

4. The contention of the petitioners is that at the time of initial appointment as Clerk, the petitioners were having degree qualification, hence, the



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petitioners were redesignated as Junior Assistant on later date, with effect from the date on which the petitioners were initially appointed as Clerk.

5. As per 12(3) settlement, dated 24.03.1997, the degree holders have to be appointed as Clerk/Record Clerk at the 1st level. Some 73 employees having degree qualification have initially appointed as 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.

6. 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 also, this Court has granted relief in W.P.(MD)No.10104 of 2009. In one more W.P.(MD)



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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:

.....

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

7. In the counter, the respondents have stated that the petitioner have already attained superannuation 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.



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8. Admittedly, the petitioners have already attained superannuation on 31.03.2019 & 30.04.2017 respectively. In such circumstances, the petitioners are entitled notional promotion alone. Since the other Corporations have granted the same relief, the petitioners are also entitled for the said benefits.

9. In view of the foregoing reasons, this Court directed the respondents to grant notional promotion and the effect shall be granted in pensionary benefits alone. It is made clear that the petitioners are not entitled to any other benefits and monetary benefits. The effect can be done only for the pensionary benefits alone. The said exercise shall be completed, within a period of eight weeks from the date of receipt of a copy of the order.

10. Accordingly, these Writ Petitions are disposed off. No Costs.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

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**Common Order made in
W.P.(MD)Nos. 13305 &
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