



W.P.(MD)Nos.1963 & 1964 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.1963 & 1964 of 2016

M.Nagarajan

*...Petitioner in
W.P.(MD)No.1963 of 2016*

R.Rajachandrasekaran

*...Petitioner in
W.P.(MD)No.1964 of 2016*

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation (KUM) Limited,
Railway Station New Road,
Kumbakonam.

2. The General Manager,
Tamil Nadu State Transport Corporation (KUM) Limited,
Railway Station New Road,
Kumbakonam.

.... Respondents in
Both the Petitions

PRAYER in W.P(MD)No.1963 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in impugned order, dated 05.01.2016 in Tha.A.Po.Ka.Kumba/No. 4/01/2016 and quash the same and subsequently direct the respondents to give the



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retirements benefit on the basis of promotion in the post of Security Officer (IC) on 05.09.2008 in respect of Pudukottai region and on 01.06.2013 in respect of whole Kumbakonam Corporation i.e., Kumbakonam, Karaikudi, Pudukottai, Trichy.

PRAYER in W.P(MD)No.1964 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in impugned order Tha.a.Pou.Ka/Kumba/Nir4/01/2016-1 dated 05.01.2016 and quash the same and consequently direct the respondents to give the retirements benefits on the basis of promotion in the post of Security Officer (IC) on 05.09.2008 in respect of Kumbakonam region and on 30.04.2013 in respect of whole Kumbakonam Corporation i.e. Kumbakonam, Karaikudi, Pudukottai, Trichy.

In Both Writ Petitions:

For Petitioner : M/s.N.Rahamadullah

For Respondents : Mr.D.Sivaraman
Standing Counsel

COMMON ORDER

W.P(MD)No.1963 of 2016 has been filed to quash the impugned order, dated 05.01.2016 and the consequential relief to give retirement benefits on



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the basis of the promotion to the post of Security Officer (In-charge) on 05.09.2008 in respect of Pudukottai region and on 01.06.2013 in respect of Kumbakonam Corporation.

2. *W.P(MD)No.1964 of 2016* has been filed to quash the impugned order, dated 05.01.2016 and the consequential relief to give retirement benefits on the basis of the promotion to the post of Security Officer (In-charge) on 05.09.2008 in respect of Kumbakonam region and on 30.04.2013 in respect of whole Kumbakonam Corporation.

3. Heard M/s.N.Rahamadullah, learned counsel appearing for the petitioners and Mr.D.Sivaraman, learned Standing Counsel appearing for the respondents. Perused the material documents available on records.

4. Since the issue involved in these Writ Petitions are connected to each other and consequential to each other, hence with the consent of both parties, both the writ petitions are taken up together and disposed of by a common order.



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5. The writ petitioner/M.Nagarajan, in W.P(MD)No.1963 of 2016 was appointed as Security Guard on 24.04.1980 by the erstwhile M/s.Cholan Transport Corporation Limited, Manapparai and thereafter, transferred to Thanjavur Mofussil in the year 1981 and also transferred to various places. The petitioner was elevated as a Security Sergeant in the year 1994. Thereafter, on 05.09.2008, promoted as Security Officer (IC) and on 01.06.2013, the petitioner was re-promoted as Security Officer (IC) in Kumbakonam Corporation. The petitioner has completed 35 years of service and retired on 31.10.2014. The claim of the petitioner is, since he had served as Security Officer (I/C) the petitioner should be granted the scale of pay i.e., applicable to the post of Security Officer and hence, consequential and pensionary benefits should be modified, hence the present writ petition.

6. The writ petitioner/R.Rajachandrasekaran, in W.P(MD)No.1964 of 2016 was appointed as Security Guard on 18.01.1980 by the erstwhile M/s.Cholan Transport Corporation Limited, Karur. On 01.10.1994, the petitioner was elevated as a Security Sergeant. Thereafter, on 05.09.2008 promoted as Security Officer (IC) and on 01.06.2013, the petitioner was re-promoted as



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Security Officer (IC) in Kumbakonam Corporation. The petitioner has completed 33 ½ years of service and retired on 30.06.2013. The claim of the petitioner is, since he had served as Security Officer (I/C) the petitioner should be granted the scale of pay i.e., applicable to the post of Security Officer and hence, consequential and pensionary benefits should be modified and hence the present writ petition.

7. The respondents have filed counter in W.P(MD)No.1963 of 2016, stating that the petitioner has joined service on 24.04.1980 as Junior Security Officer and thereafter, he was confirmed on 01.11.1981. The relevant particulars of promotion are stated below:

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| <i>"3. 1st Review on 01.08.1986 after 6 years</i> | <i>: Security guard</i> |
| <i>4. 2nd Review on 01.08.1994 after 8 years</i> | <i>: Senior Security guard</i> |
| <i>5. 3rd review on 01.08.2004 after 10 years</i> | <i>: Special Grade Security guard</i> |
| <i>6. 4th Review on 01.08.2009 after 5 years</i> | <i>: Security Sergeant</i> |
| <i>7. 5th Review on 01.08.2012 after 3 years</i> | <i>: Security Sergeant</i> |
| <i>8. Date of Superannuation on 31.10.2014".</i> | |



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8. The respondents have filed counter W.P(MD)No.1964 of 2016, stating that the petitioner has joined service on 18.01.1980 as Junior Security Guard and thereafter, he was confirmed on 01.08.1981. The relevant particulars of promotion are stated below:

Review Details	Re-Designation	with effect from	
1 st Review	Junior Security Guard	01.02.1986	After 6 years
2 nd Review	Senior Security Guard	01.02.1994	After 8 years
3 rd Review	Security Sergeant	01.11.2004	After 10 years
4 th Review	Security Sergeant	01.11.2009	After 5 years after the settlement
5 th Review	Security Sergeant	01.11.2012	After 3 years

9. In the meanwhile, on 05.09.2008 the petitioners had served for a brief period as Security Officer In-charge. It is categorically stated in the order while granting in-charge post that the petitioners should hold the post as Security Inspector, In-charge, without any modification in the pay scale. The petitioners having accepted the same in the year 2008, after their retirement, is claiming salary to the said post. Therefore, the respondents have rejected the claim of the petitioners.



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10. Moreover, the petitioners are not having the necessary qualification for the said post and hence the claim of the petitioners cannot be entertained. The respondent further states that none of the employees of the Corporation are satisfying the qualification prescribed thereunder. The post of Security Officer shall be filled up through promotion from the post of Security Inspector. For the post of Security Inspector, the prescribed qualification is the candidate ought to have served as Security Sergeant and also, they should possess the educational qualification that is prescribed for direct recruitment. For the direct recruitment, ***“the candidate should possess SSLC from a recognized School as well as must be an ex-Indian Junior Commissioned Officer of any of the Defence Services”***. The petitioners are not having SSLC qualification and also had not served as Ex-Indian Junior Commissioned Officer of any Defence services, the petitioners cannot be considered for the post of Security Inspector. In turn cannot be considered for the post of Security Officer. Therefore, this Court is of the considered opinion that the petitioners is not possessing the requisite qualifications stated supra, the petitioners cannot claim the post of Security Officer.



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11. This Court is also of the considered opinion that the petitioners having accepted to serve as Security Officer In-charge without modification in the pay scale, after retirement the petitioners cannot claim salary for the said post. The petitioners ought to have either refused to hold the In-charge post or ought to have approached the Court, while in service. Therefore, for this reason the present petition cannot be entertained.

12. The petitioners without challenging the appointment order, dated 05.09.2008, they are only seeking consequential relief. On this angle also, these writ petitions cannot be entertained.

13. Moreover, the petitioners have filed these writ petitions in the year 2016, after two years from the date of f their retirement. Hence the writ petitions are filed belatedly, hence on this ground also the writ petitions cannot be entertained.



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14. Accordingly, these Writ Petitions are dismissed. No Costs.

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**Common Order made in
W.P.(MD)Nos.1963 & 1964 of 2016**

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