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W.P.No.2832 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.2832 of 2021 and
W.M.P.No.3168 of 2021

S.Ponmozhi

... Petitioner

Vs.

1.The Secretary to Government,
Transport (H1) Department,
Fort St. George,
Chennai 600 009.

2.The Director,
Motor Vehicle Maintenance Department,
Velacherry,
Chennai 600 042.

3.M.Maheswari

4.The Deputy Director,
Government Automobile Workshop,
Kottapattu, Trichy 23.

5.K.Vani

6.V.Elangovan

7.D.Nalini

8.J.Brito

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,



to issue a Writ of Mandamus, to direct the first respondent to initiate appropriate departmental action against the erring officials of respondents 3, 5 to 8 who failed to consider the petitioner grievance as well as provide inadequate information despite of the Tamil Nadu Information Commission Order dated 09.01.2020 by considering the representation of the petitioner dated 29.12.2020.

For Petitioner	: Mr.R.Marudhachalamurthy
For Respondents	: Mr.R.U.Dinesh Rajkumar, AGP for R1 No representation for R2 to R8

ORDER

This Writ Petition has been filed seeking for a direction to the first respondent to initiate appropriate departmental action against the respondents 3, 5 to 8 who failed to consider the grievance of the petitioner, as well as to provide inadequate information, despite of the Tamil Nadu Information Commission Order dated 09.01.2020 by considering the representation of the petitioner dated 29.12.2020.

2. Heard the learned counsel on either side and also perused the materials available on record.



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3. The learned counsel for the petitioner submitted that the petitioner joined as a helper in the second respondent department on 13.02.1979 and thereafter, promoted as charge man on 03.07.1981. After completion of 30 years of service as charge man, the petitioner is eligible for Super Grade charge man in the year 2009, but the same was not considered. It is necessary to mention that his juniors in the same department namely S.Chandrasekaran and T.Manoharan, who have joined in his department as helper and welder grade II on 16.08.1980 and 13.08.1979 respectively, were promoted. Within a period of 165 days, there are two promotions were offered in favour of T.Manoharan without preparing any panel list. There are three persons namely, R.Vijayakumar, S.Gurusamy and C.Natarajan, who are juniors to the petitioner were given promotion along with four other persons. The second respondent announced a panel list dated 12.07.1991 in Ref.No.A4/11797/91. Against which, the petitioner has challenged the said panel list before this Court by way of a Writ Petition in W.P.No.6854 of 2005 and this Court, by an order dated 16.11.2009 had disposed of the said petition granting liberty to the petitioner to make a representation in this regard before the competent authority. On the basis of the observation given by this Court, the petitioner



made several representations before the second respondent, but the same was not considered. Hence, he filed another Writ Petition before this Court in W.P.No.15097 of 2011 and this Court, by an order dated 29.06.2011 allowed the said petition with a direction to the second respondent to consider the representation of the petitioner. But the second respondent without considering the representation of the petitioner simply informed through his communication dated 05.09.2011 his name will be considered for promotion to the post of foreman. On receipt of the said communication, the petitioner made his objection through his representation dated 19.10.2011 stating that he has to be given promotion on par with his juniors stated supra right from 1986. But the second respondent without considering the same had announced the panel list dated 04.11.2011 and the petitioner was promoted to the post of foreman right from 2011. Against which, the petitioner again filed a Writ Petition before this Court in W.P.No.20105 of 2012 challenging the panel list dated 04.11.2011 and the same is still pending. Thereafter, the petitioner approached the second respondent for want of certain information relating to his case and the same was not provided by the second respondent and thereby, he approached the Tamil Nadu Information Commission in S.A.No.11431/F/2019 and the same was considered by its order dated



09.01.2020 with a direction to the second respondent that the information sought for by the petitioner will be given within a period of 30 days. Despite of the order passed by the Information Commission, the respondents 2 and 3 have not provided the same and purposely suppressing the information with an intention to defeat his lawful right. Hence, he brought the same to the knowledge of the Information Commission about the illegality committed by the respondents 2 and 3 through a representation dated 15.05.2020 and the same is pending for consideration. Further, he made a representation dated 29.12.2020 to the first respondent to initiate appropriate departmental action against the respondents 3, 5 to 8 who failed to consider the grievance of the petitioner.

4. The learned Additional Government Pleader appearing for the first respondent submitted that the grievance of the petitioner is to promote him on par with his juniors S.Chandrasekaran and T.Manoharan to the post of Foreman for which he approached the Tamilnadu State Administrative Tribunal and the said application was dismissed by the Tribunal through its order dated 19.11.2003 in O.A.No.3555 of 1992. Aggrieved by the same, the petitioner preferred a petition before this Court in W.P.No.6854 of 2005 and



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the Hon'ble Division Bench of this Court had dismissed the said petition with a direction to the petitioner to make a fresh representation to the competent authority and on such representation being made, the same shall be considered by the authority in accordance with the relevant Government Orders/ Rules on its own merits. Further, the petitioner has not given any representation in regard to the benefits to be granted to him, but gave a representation dated 11.04.2011 seeking the same relief sought for in the Writ Petition to promote him on par with S.Chandrasekaran as foreman and consequential promotion as technical assistant as per G.O.(Ms).No.889, Transport Department, dated 09.11.1972. Again, the petitioner filed a Writ Petition before this Court in W.P.No.15097 of 2011 and this Court by an order dated 29.06.2011 had disposed of the said petition with a direction to the competent authority to consider the representation of the petitioner dated 11.04.2011 and pass appropriate order within a period of three months. The representation of the petitioner dated 11.04.2011 has been considered and as per the seniority, the petitioner was promoted as foreman in the year 2011-12.

5. Furthermore, he continued that the petitioner submitted another representation dated 19.10.2011 seeking the same relief to promote him on



par with S.Chandrasekaran. Thereafter, he filed another Writ Petition in W.P.No.20105 of 2012 seeking to quash the promotion order issued by the second respondent on 04.11.2011 and the same is pending and he has also filed a petition before the Public Information Officer of the Motor vehicles Maintenance Department under Right to Information Act, 2005 on 19.07.2014. The requisite information sought for by the petitioner could not be traced out as the records were flooded and damaged and therefore, his request was rejected by the Public Information Officer through a letter dated 03.09.2014. Therefore, the petitioner preferred a second appeal before the State Information Commission and the State Information Commission, ordered to trace out the old files and furnish the same to the petitioner. Finally, the Tamil Nadu Information Commission accepted the non availability of records damaged due to floods and closed the complaint preferred by the petitioner on 27.04.2022. Section 21 of the Right to Information Act, 2005 gave full protection to the private respondents for the acts done in good faith.

6. In view of the submissions made by the learned additional Government Pleader and on perusal of the records, it reveals that the



petitioner has already availed his remedy and proper explanation has also been given by the competent authority. The requisite information sought for by the petitioner before the Public Information Officer of the Motor Vehicles Maintenance Department under Right to Information Act, 2005, could not be traced out as the records were flooded in December 2015. Considering this aspect, this Court finds that the claim of the petitioner is devoid of merits.

7. With the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.09.2024

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Index : Yes / No

Speaking order / Non-speaking order

To

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2. The Director,
Motor Vehicle Maintenance Department,
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VIVEK KUMAR SINGH, J.

vkr

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