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WA.Nos.2868 & 3021/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WA.Nos.2868 & 3021/2023
& CMP.Nos.23811 & 25012/2023

The Managing Director
Tamil Nadu State Express Transport Corporation
Limited, No.2, Pallavan Salai,
Chennai 600 002.

... Appellant in both appeals

Vs.

1.M.Ramakrishnan

... R1 in
WA.No.2868/2023

2.G.Jayabalan

... R1 in
WA.No.3021/2023

3.The State of Tamil Nadu
rep.by the Under Secretary
Transport [D] Department
Fort St Gerge, Chennai-9.

4.The Deputy Secretary to Government



WA.Nos.2868 & 3021/2023

Transport [D] Department
Fort St George, Chennai-9.

... RR2 & 3 in both appeals

Common Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 21.11.2019 made in WP.Nos.32747/2015 & 32748/2015.

For Appellant in both
Writ Appeals : Mr.K.Kathiresan

For R1 in both appeals : Mr.Kaarthikeyan

For RR2 & 3 in both
appeals : Mr.G.Nanmaran, Spl.GP

COMMON JUDGMENT

[Judgment of the Court was delivered by S.S.SUNDAR, J.,]

(1)The present writ appeals are filed by the Transport Department challenging the order dated 21.11.2019 made in WP.Nos.32747 & 32748/2015.

(2)The facts in both cases are identical and hence, they are taken up together for hearing and disposed of by this common judgment.



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(3) For the sake of convenience, we have taken the facts in WA.No.2868/2023 which is filed challenging the order of the learned Single Judge in WP.No.32747/2015 in allowing the writ petition filed by the writ petitioner.

(4) Brief facts that are necessary for the disposal of these writ appeals are as follows:

(5) The 1st respondent in WA.No.2868/2023 is the writ petitioner in WP.No.32747/2023. he was initially appointed as a Chargeman on 15.02.1969 and he was promoted as Foreman on 15.10.1976. The petitioner was promoted as Assistant Engineer with effect from 27.06.1986 and he was given further promotion as Assistant Manager with effect from 18.12.1995. The petitioner retired on superannuation on 31.05.2006.

(6) By virtue of Government Order vide G.O.Ms.No.761, Transport [Committee] Department, dated 30.04.1993, the Government has directed time bound promotion by formulating a scheme according to which, the Assistant Manager in the Transport Department shall be appointed as Selection Grade Assistant Manager on completion of six years of



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eight years as Assistant Manager and therefore, they are entitled for promotion to the post of Selection Grade Assistant Manager under the time bound promotion scheme and consequential benefits.

(8)The only contention raised by the appellant/Transport Corporation before the learned Single Judge was that revised guidelines were issued in 1993 and the writ petitioners though served as Assistant Manager for more than 10 years, had made their representations only after their retirement and therefore, the writ petitions are liable to be dismissed on the ground of delay and laches. However, the learned Single Judge held that the petitioners cannot be discriminated and deprived of the benefit of service in tune with the policy of the Government merely because there is some delay in approaching this Court.

(9)The learned counsel for the appellant reiterated that the writ petitions were liable to be dismissed on the ground of delay and laches and the learned Single Judge allowed the writ petitions without considering the huge delay in approaching the Court. The learned counsel reiterated the grounds raised by the appellant in the Grounds of Appeals.

(10)This Court has carefully examined the orders passed by the learned



Single Judge on merits.

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(11) By virtue of the Government Order, it appears that several persons who are similarly placed, were given the benefit of revised pay as applicable to Selection Grade Assistant Managers on completion of six years of qualifying service. The fact that the writ petitioners are entitled to Selection Grade pay in the post of Selection Grade Assistant Managers on completion of six years with effect from 18.12.1995 is not in dispute. Even though there is a delay in giving representation, this Court finds that similarly placed persons have been given benefit of service in tune with the policy decision of the Government all along.

(12) The writ petitioners appear to have submitted representations following orders of this Court in favour of employees who have filed writ petitions in the year 2007. Though delay and laches can be fatal in appropriate cases, the question of limitation or delay cannot be the sole ground on which this Court will ignore the person's right or eligibility to get a benefit on admitted facts. Unless the person is put to serious prejudice, the Court need not entertain the plea of delay and laches.

(13) The appellant, a public Transport Corporation as a model employer is



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not expected to deny the benefit to employees who are entitled to otherwise merely because there is delay in approaching the Court. The delay in approaching the Court will not justify the discrimination which is apparent in this case on admitted facts. The appellant cannot take advantage of their own negligence or inaction to deny salary to which the writ petitioners are entitled to. There is no material to suggest that the petitioners had waived or abandoned their right for reasons.

(14)For the reasons stated above, this Court finds no merits in the writ appeals. Accordingly, the writ appeals stand **dismissed**.

(15)After the disposal of the writ appeals, the learned counsel for the appellant seeks time for compliance.

(16)It is also reported that the writ petitioners has filed a contempt as against the order.

(17)Considering the fact that the matter is pending for a long time and the writ petitioners are deprived of his valuable right all along, the appellant is directed to disburse the monetary benefit to the writ petitioners within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.



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AP

Internet : Yes



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[S.S.S.R., J.] [N.S., J.]
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