



W.P.No.23851 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.23851 of 2024
and W.M.P.No.26109 of 2024

M.Sivakumar,
Motor Vehicle Inspector Grade-I,
RTO Office, Kumarapalayam,
Namakkal District.

.. Petitioner

Vs.

1.The Additional Secretary / Transport Commissioner,
Guindy, Chennai – 600 005.

2.The Joint Transport Commissioner (A),
Commissionerate of Transport and Road Safety,
Chepauk, Chennai – 600 005.

3.The Joint Transport Commissioner,
Coimbatore – 641 018.

4.The Deputy Transport Commissioner,
Erode Zone, Erode.

.. Respondents

Prayer: Writ 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 as Regional Transport Officer by including the name of the petitioner in the panel of Motor Vehicle Inspector fit for promotion to the post of Regional Transport Officer for the year 2021-2022 on par with the petitioner's immediate junior along with all other



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service and monetary benefits within the time stipulated by this Court.

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For Petitioner : Mr.M.Ajmalkhan
Senior Counsel
for Ajmal Associates

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mr.V.P.R.Elamparithi
Additional Government Pleader

ORDER

When the matter came up for hearing on 14.10.2024, the following order was passed by this Court.

“This writ petition has been filed seeking a direction to the first respondent to promote the petitioner as a Regional Transport Officer by including the name of the petitioner in the panel for Motor Vehicles Inspector fit for promotion to the post of Regional Transport Officer for the year 2021-2022.

2. When the writ petition came up for hearing on 11.09.2024, this Court passed the following order:

"This writ petition has been filed for a direction to the 1st respondent to promote the petitioner as Regional Transport Officer by including the name of the petitioner in the panel of Motor Vehicles Inspector Grade-I, fit for promotion to the post of Regional Transport Officer for the year 2021-22 on par with the petitioner's immediate junior along with all other service and



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monetary benefits.

2.The case of the petitioner is that he is holding the post of Motor Vehicles Inspector Grade-I and that his next avenue of promotion is to the post of Regional Transport Officer. The further case of the petitioner is that the crucial date was fixed as 01.07.2022 and the panel was approved on 04.11.2022. The petitioner states that neither on the crucial date nor on the date when the panel was approved, any disciplinary proceedings were initiated or pending against the petitioner. In view of the same, the name of the petitioner was also included in the panel at Serial No.24.

3.The 3rd respondent through proceedings initiated in April 2023 issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner also submitted his explanation for this charge memo on 06.05.2023.

4.The grievance of the petitioner is that the name of the petitioner has been removed from the panel and the petitioner's junior and various other persons were given promotion as Regional Transport Officer. Therefore, the petitioner has taken a ground that the promotion of the petitioner cannot be denied, since there was no impediment as on the crucial date on 01.07.2022 and that the subsequent charge memo cannot be a reason to



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deny his promotion.

5.The learned Additional Advocate General appearing on behalf of the respondents based on the written instructions submitted that the panel was prepared only for temporary promotion under Rule 17 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. However, the petitioner has wrongly understood as if the panel has been prepared for the regular promotion to the post of Regional Transport Officer.

6.The relevant portions from the written instructions received from the 1st respondent are extracted hereunder:

6.It is informed that, a proposal has been sent to Government to draw the panel for temporary promotion for the post of Regional Transport Officer for the year 2019 - 2020 and requested to issue orders promoting Motor Vehicle Inspector Grade-I, P.A to R.T.O./D.T.C/J.T.C/S.T.A as Regional Transport Officer under section 17(1) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

7.Accordingly, the Government have issued orders temporarily appointing 7 Motor Vehicles Inspector Grade-I and 2 Personal Assistants to Regional Transport Officer / Deputy Transport Commissioner / State Transport Authority as Regional Transport Officer under section 17(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016



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subject to outcome of the SLP(C) No.28670 of 2015 & 22717-22719 of 2015 filed before the Hon'ble Supreme Court of India, New Delhi and to fix their seniority after the disposal of the above said SLPs vide G.O.(Ms) No.259, Home (Tr.II) Department, dated: 01.07.2021. Subsequently posting orders were issued vide G.O.(D) No.824, Home(Tr-II) Department, dated.27.07.2021.

8.It Is informed that, the Government have issued orders for estimate of vacancies in the post of Regional Transport Officer in Transport Department for the year 2021-2022 is assessed as 20 (Twenty) vide the Government letter no. (Ms). No.307, dated. 24.06.2022.

Consequently the panel proforma particulars for 32 Motor Vehicles Inspector Grade-I and 8 P.A to R.T.O/D.T.C/J/T.C/S.T.A has been requested vide this office letter R.No.041442/T2/2021, dated.04.11.2022. But the above panel was exhausted and the Government have issued orders as "Nil" panel for the post of Regional Transport Officers In Transport Department in the panel year 2021- 2022 and 2022-2023 vide Government Letter (D) No.1208, dated 19.10.2023 and Government Letter (D) No.1209, dated 19.10.2023.

9.It is stated that sub-para (8) of Part-A (II) of Schedule XI of Tamil Nadu Government Servants (Conditions



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of Service) Act, 2016 is reiterated as follows:-

"(8) Pendency of charges framed under rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against a member of a service shall be a bar for inclusion of his name in the approved list"

It is also submitted that section 17(1) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 is reiterated as follows:-

"17(1) Where it is necessary in the public interest owing to an emergency which has arisen to till immediately a vacancy in a post borne on the cadre of a service, class or category and there would be undue delay in making such appointment in accordance with the provisions of this Act and the specials rules, the appointing authority may temporarily appoint a person, who possesses the qualifications prescribed for the post otherwise than in accordance with this Act and the said rules."

10. It is informed that as per the of consolidated Instructions issued by the Government in Letter No. 5230612/S Spl/2023-11, dated: 14.09.2023, the Transport Commissioner, Chennai has issued orders for revision of seniority among the Motor Vehicle Inspector, Grade-I on merit basis vide Proceedings



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*No.17288/T1/2023 (???.?. 535/2023),
dated. 01.11.2023.*

11. The name of Thiru.M.Sivakumar (Sl.No.6) was placed below Thiru. K.Sathlyakumar (Sl.No.5) and above V.Arunachalam (Sl. No.7) in the panel year 2010-2011 for the post of Motor Vehicle Inspector, Grade-I. Both Juniors of the individual Tmt. M. Poonguzhali (Sl.No.10) and Tmt.R.Chitra (Sl.No.11) have been promoted as Regional Transport Officer vide G.O.(Ms) No.259, Home(Tr.II) Department, dated: 01.07.2021 for the panel year 2019-2020.

It is informed that para (2) of consolidated Instructions Issued by the Government in Letter No.5230612/S.Spl/2023-11, dated: 14.09.2023 is reiterated as follows:

"(2) The suitability of the candidates as on the crucial date of the panel year has to be assessed as per Section 7, Schedule XI Part A of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 i.e., pendency of charges, currency of punishments., etc., with reference to the crucial date. While carrying out this exercise, If any of the above Impediments as to the suitability of the candidate is found to exist arising after the crucial date, such impediments need not be considered, as a bar while revising the panel."



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It is informed that charges under rule 17(b) of TNCS (D&A) Rules framed against the Individual in Memo R.No. 1803/A2/2022, dated.28.04.2023 issued by Joint Transport Commissioner, Coimbatore which is still pending against the individual officer. Hence, the request of the individual is not feasible to consider at this stage.

7.The learned counsel for the petitioner submitted that he is lead by Senior Counsel and sought for some time.

8.Post this case under the caption 'For Orders' on 19.09.2024."

3. Learned Additional Advocate General appearing on behalf of respondents submitted that the relief sought for by the petitioner cannot be granted in view of the fact that a 'Nil' panel was drawn for the post of Regional Transport Officer in Transport Department for the year 2021-2022 and therefore, the very claim made by the petitioner to include his name in the said panel does not arise. To substantiate this submission, learned Additional Advocate General also relied upon paragraph No.4(v) of the counter affidavit wherein it has been stated as follows:

"4(v). Since the Government have approved the panel to the post of Regional Transport Officer for the year 2021-2022 as 'Nil' and also for the year 2022-2023 as 'Nil' vide Government Letter No.(D) No's 1208 and 1209 dated



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19.10.2023. Since the Government had issued order as 'Nil' panel for the year 2022-2023, the question of considering the promotion of the petitioner by including his name in the year of panel for 2022-2023 did not arise."

4. Learned Additional Advocate General further submitted that for considering the name of the petitioner for promotion in the subsequent panel, disciplinary proceedings initiated against the petitioner is a bar and therefore, the name of the petitioner cannot be added in the panel.

5. In the light of the specific stand taken by the respondents, learned Senior Counsel appearing on behalf of the petitioner shall take instructions since it may not be necessary for this Court to go into the merits of the case considering the fact that a 'Nil' panel has been drawn for the post of Regional Transport Officer for the year 2021-2022.

Post this writ petition at the end of the motion list on 16.10.2024."

2. When the matter was taken up for hearing today, Mr.M.Ajmalkhan, learned Senior Counsel appearing on behalf of the petitioner submitted that originally a panel was prepared for promotion to the post of Regional Transport Officer for the year 2021-2022 and the name of the petitioner was not included on the ground that subsequent disciplinary proceedings were initiated against him in April, 2023.



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However, a stand has now been taken to the effect that a NIL panel was prepared for the year 2021-2022 and 2022-2023. In the light of this stand taken by the respondents, nothing may survive to be agitated in this writ petition and the learned Senior Counsel requested this Court to record the stand taken by the respondents.

3.Recording the above submission, this Writ Petition stands closed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

17.10.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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Commissionerate of Transport and Road Safety,
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N.ANAND VENKATESH, J.

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