



WA(MD). No.862 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 18/07/2024

CORAM

**Justice N.SESHASAYEE
and
Justice P.VADAMALAI**

**WA(MD). No.862 of 2020
and
C.M.P(MD)No.4777 of 2020**

The State of Tamilnadu
Rep. by its Principal Secretary to Government
Transport Department
Fort St. George
Chennai.

... Appellant/Respondent No.1

Vs

1.A.Arumugam

... 1st respondent/Petitioner

2.The Convener,
Career Planning Committee
Tamil Nadu State Transport Corporation
Thiruvalluvar House,
Pallavan Salai, Chennai - 600 002.

3.The Managing Director,
Tamilnadu State Transport Corporation,
(Salem Division II) Limited,
12 Ramakrishna Road,
Salem.



WA(MD). No.862 of 2020

4. The Managing Director,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
New Railway Station Road,
Kumbakona - 612 001. ... Respondents 2 to 4/Respondents 2 to 4

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 13.02.2020 in WP(MD) No.8427 of 2019.

For Appellant : Mr.A.Baskaran,
Additional Government Pleader
For Respondents : Mr.VR.Shanmuganathan
Mr.SC.Herold Singh for R2
Mr.K.Ramaiah for R3 and R4

JUDGMENT

(Judgment of the Court was delivered by N.SESHASAYEE, J.)

This writ appeal is directed by the first respondent in W.P(MD)No.8427 of 2019 challenging the order of a learned Single Judge, dated 13.02.2020.

2. The factual background, under which this appeal arises, may now be stated:

a) On 15.04.1989, the first respondent herein was appointed as an Assistant Engineer in the Transport Department. On 13.01.1995,



WA(MD). No.862 of 2020

WEB COPY

he was promoted as Assistant Manager. G.O.Ms.No.761, Transport (committee) Department, dated 30.04.1993 came to be introduced by the Government, by which, those Assistant Managers, who were stuck in the same post for six years and more, were given the same scale of pay as Deputy Managers. Indeed they will be termed as selection grade Assistant Managers and would be brought to the same scale of pay as the Deputy Managers and that both these posts are convertible in terms of G.O.Ms.No.761 dated 30.04.1993;

(b) The first respondent herein has become eligible to be conferred with the benefit under the said G.O., on and from 13.01.2001. However, he was actually given the same, some two years later, to be precise, on 13.01.2003. Hence, the first respondent moved this Court in WP(MD)No.8427/2019 to give him the benefits retrospectively from 07.03.2001. This order is now challenged by the Government in this appeal.

3. Heard both sides. It was argued on behalf of the appellant that there are other set of facts that involve the validity of



WA(MD). No.862 of 2020

G.O.(Ms)No.196 Transport (D) Department, dated 10.08.2017 and hence, the first respondent's case should not be considered. At any rate, the first respondent still could not be granted any benefit in view of G.O.(D)No.107 Transport(D) Department dated 05.07.2006, which prescribes procedure for promotion.

4. G.O.Ms.No.107 dated 05.07.2006 cannot come in the way for two reasons:

- a) That the first respondent has become entitled to be considered for promotion as a Selection Grade Assistant Manager at least five years prior to the date on which the Government came out with G.O.Ms.No.107 dated 05.07.2006 and the Government order can never be given retrospective effect;
- b) This Court is informed that notwithstanding G.O.Ms.No.107 dated 05.07.2006, no promotion was ever made based on the same.

5. The learned counsel for the first respondent submitted that the first respondent is due to retire on 31.07.2024. Therefore, the appellant is required to work out all his pensionary benefits, based on the present



WA(MD). No.862 of 2020

judgment and pay them to him, as and when he superannuates, at any rate, not later than eight weeks after his superannuation. This direction will apply only for calculating his arrears of salary based on any notional promotion that he may have to be given and also for determining his pension and will not be applicable to payment of his EPF as well as gratuity.

6. In view of this, this writ appeal is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

(N.S.S.,J.) (P.V.M.,J.)
18.07.2024

NCC : Yes/No
Index : Yes/No

RR/PM

To
The Principal Secretary to Government
Transport Department
Fort St. George
Chennai.



WEB COPY



WA(MD). No.862 of 2020

**N.SESHASAYEE, J.
and
P.VADAMALAI, J.**

PM

WA.(MD)No.862 of 2020

18.07.2024