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W.P.(MD).No.23552 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23552 of 2016

and

W.M.P.(MD)Nos.16920 and 16921 of 2016

N.Jeyaraman

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport
Corporation,
Madurai Division,
Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation,
Dindigul Region (Madurai Division),
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 27.04.2016 of the 2nd respondent and to quash the same and consequently directing the respondents to consider the petitioner's claim of promotion to the post of Checking Inspector / Time Keeper in the light of Rule 59(b) Appendix-II of the Common Service Rules applicable to the graduate conductors.



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For Petitioner : Mr.J.Ashok

For Respondents : Mr.J.Senthil Kumaraiah,
Standing counsel

ORDER

The prayer of the writ petition is as follows:

This writ petition has been filed to quash the impugned order dated 27.04.2016 of the 2nd respondent and consequently directing the respondents to consider the petitioner's claim of promotion to the post of Checking Inspector / Time Keeper in the light of Rule 59(b) Appendix-II of the Common Service Rules applicable to the graduate conductors.

2. The petitioner was appointed as a Conductor in the respondent corporation with effect from 15.09.1986 and was made permanent on 02.07.1987. He was promoted as Senior Grade Conductor on 01.02.1993 and thereafter as Selection Grade Conductor on 01.08.2002. As per Rule 4(2) of the Regulation of the respondent corporation dated 06.06.1975 in proceedings No.21064/A8/KTC/75, a conductor is entitled for a promotion as Senior Grade Conductor on completion of his service for six years and on completion of eight years a Senior Grade Conductor is entitled to be promoted as Selection Grade Conductor / Time Keeper / Ticket Checking



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Inspector. However, since the post of Checking Inspector has been upgraded as a promotional post, the Checking Inspector can also discharge the duty as Controller and Time Keeper.

3. The promotions to the various posts in the respondent corporation is given in accordance with Common Service Rules framed by the respondent corporation. As per rule Rule 59(b) Appendix-II of the Common Service Rules, senior conductors are eligible to be promoted as Checking Inspector / Time Keeper. The petitioner is entitled to get promotion to the post of Checking Inspector / Time Keeper when he was holding the post of Senior Conductor (second level), that is, Selection Grade Conductor. But the respondent corporation without invoking Rule 59(b) has kept the promotion prospectus of the petitioner pending. Similarly placed persons who are employed in other corporations are given promotion as Checking Inspector / Time Keeper by invoking the benefits granted under Rule 59(b) Appendix-II of the Common Service Rules. Since the petitioner is entitled to the same benefit extended by other corporations to the graduate conductor, the petitioner being a graduate conductor filed W.P.(MD)No.1411 of 2016 seeking to direct the respondents to consider the petitioner's claim of promotion to the post of Checking Inspector / Time Keeper in the light of



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Rule 59(b) Appendix-II of the Common Service Rules applicable to the graduate conductors.

4. This Court by an order dated 22.01.2016 allowed the writ petition, directing the 2nd respondent to consider the representation of the petitioner and pass appropriate orders within a period of eight (8) weeks from the date of the receipt of copy of the order in the aforesaid writ petition. Pursuant to the same, the impugned order dated 27.04.2016 passed by the 2nd respondent came to be issued, rejected the claim of the petitioner citing the pendency of W.P.(MD)No.7401 of 2018 before this Court, in which, Rule 59(b) Appendix-II of the Common Service Rules applicable to the graduate conductor has been challenged.

5. That apart, it was also informed by the petitioner that, in Virudhunagar region, the trade union, namely, CITU, had filed W.A.(MD)No. 1138 of 2014 before the Hon'ble Division Bench of this Court challenging a favourable order passed by the learned single judge of this Court in the writ petition to the similarly placed persons on the strength of Rule 59(b) Appendix-II of the Common Service Rules applicable to the graduate conductors.



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6. However, when the matter was taken up for hearing, the learned counsel for the petitioner submitted that the said writ appeal in W.A. (MD)No.1138 of 2014 has been dismissed as withdrawn on 30.09.2019. He also drew my attention to the order passed by the Tamil Nadu State Corporation (VPM) Ltd, Viluppuram, promoting similarly placed persons with effect from 11.11.2016.

7. The learned counsel for the respondent Mr.J.Senthil Kumaraiah, on the basis of the counter affidavit filed by the 1st respondent submitted that already one post of Checking Inspector / Time Keeper has already been withheld for promotion proposal in the respondent corporation. However, in the meanwhile, the petitioner had already attained the age of superannuation on 30.06.2017 and had retired from service.

8. Considering the fact that this writ petition has been filed as early as on 2016 even before the retirement of the petitioner and that similarly placed persons were given the benefit of rule Rule 59(b) Appendix-II of the Common Service Rules and were promoted as Checking Inspector / Time Keeper, the respondent corporation ought to have considered the case of the petitioner favourably. Now that writ appeal in W.A.(MD)No.1138 of 2014 has



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already been dismissed as withdrawn and that the case of similarly placed persons have been considered in terms of the aforesaid Rule and promoted to the post of Checking Inspector / Time Keeper, by the order of the Tamil Nadu State Transport Corporation (VPM) Ltd, Villupuram, dated 09.11.2016, the impugned order is hereby quashed and remanded back to the respondent corporation to consider the case of the petitioner in the light of Rule 59(b) Appendix-II of the Common Service Rules applicable to the graduate conductor and pass favourable orders within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml



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To

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Tamil Nadu State Transport
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Madurai Division,
Madurai.

2.The General Manager,
Tamil Nadu State Transport
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Dindigul Region (Madurai Division),
Dindigul.



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L.VICTORIA GOWRI, J.

Sml

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