



W.A.(MD)No.1336 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.03.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

W.A.(MD)No.1336 of 2019 &
C.M.P.(MD)Nos.11234 of 2019 & 428 of 2020

Tamil Nadu State Transport Corporation,
Tirunelveli Division,
By Pass Road,
Vannarpettai,
Tirunelveli Rep. by its
Managing Director

...Appellant

Vs.

P.Anjalose

... Respondent

PRAYER: Appeal filed under Clause 15 of the Letter Patent, to set aside the order passed in W.P.(MD)No.6414 of 2014 dated 06.12.2018 on the file of this Court.

For Appellant : Mr.K.Sathiya Singh

For Respondent : Mr.T.Ravichandran



W.A.(MD)No.1336 of 2019

JUDGEMENT

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

P.Anjalose, a person, appointed as a Junior Assistant in the Transport Corporation in the year 1978 was asked to officiate as an Assistant Manager (incharge) vide communication dated 13.05.1997. The Office Order made very specific that he will not be eligible for any monetary benefits during the incharge period and he cannot claim any other benefits for holding the post as incharge. While so, his posting as an Assistant Manager (incharge) was challenged by one Vargees in W.P.No.2663 of 1998 claiming that he should have been promoted to the said post instead of Anjalose being appointed as an incharge without monetary benefits. This writ petition came to be dismissed on 23.06.2006.

2. While so, the said Anjalose was promoted as an Assistant Manager in the regular basis from 01.01.2007. He made a request to give effect to his promotion with retrospective effect from the date of which he officiated as an Assistant Manager (incharge) through order dated 13.05.1997 issued by the Managing Director. After attaining superannuation, he approached this Court through W.P.(MD)No.5093 of 2007 with a prayer to issue mandamus directing the

Page 2 of 8



W.A.(MD)No.1336 of 2019

respondent to promote him to the post of Assistant Manager with retrospective effect from May 1997 as per the letter dated 09.11.1987 issued by the Managing director and give consequential promotion. This writ petition was considered by the learned Single Judge and was allowed on 06.11.2012.

3. Anjalose filed W.P.(MD)No.6414 of 2014 seeking mandamus directing the respondent Corporation to extend all the monetary benefits and retirement benefits giving notional promotion as an Assistant Manager with effect from 13.05.1997, which he is entitled to as per the order passed by the learned Single Judge in W.P.(MD)No.5093 of 2007. When the writ petition came up for consideration, the learned counsel appearing for the Transport Corporation, contended that the Corporation has preferred an appeal against the order passed by the learned Single Judge in W.P.(MD)No.5093 of 2007, but, the same is yet to be numbered and is in S.R. state. The learned Judge found that such an excuse for not implementing the learned Single Judge order is not sustainable since six years have already lapsed from the date of the order passed by the learned Single Judge directing the respondent Corporation to give promotion to the writ petitioner Anjalose as Assistant Manager with effect from May 1997.

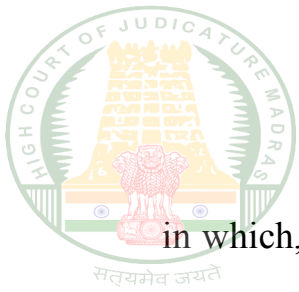


W.A.(MD)No.1336 of 2019

4. Being aggrieved by the said order passed by the learned Single Judge,
the present writ appeal is filed.

5. According to the learned counsel for the Transport Corporation / appellant, Anjalose had been disclosed with a condition upon which he was officiating as an Assistant Manager (incharge). Having accepted the post an Assistant Manager (incharge) without monetary benefit, after retirement, he cannot claim any monetary benefit. The letter of appointing him as Assistant Manager (incharge) was not placed before the learned Single Judge in the earlier occasion. Hence, the order which have an adverse impact on the revenue of the Transport Corporation has caused. If this order is implemented, Anjalose, who is not entitled for any monetary benefit for officiating as an Assistant Manager will be enriched unjustly.

6. The learned counsel for the Transport Corporation further submits that in view of the recruitment ban, the Corporation was not in a position to fill up the vacancy of Assistant Manager, which fell vacant after the retirement of one T.T.Vinayagam, who retired as Deputy Manager (Personnel). Meanwhile, there was a writ petition filed by one Vargees and there was a *status quo* in respect of the appointment of Anjalose as Assistant Manager (incharge). The writ petition,



W.A.(MD)No.1336 of 2019

in which, stay was granted came to be dismissed on 23.06.2006, Soon thereafter, the Board considered the case of Anjalose and promoted him as Assistant Manager (incharge) from 01.01.2007. He retired from service on 30.04.2007 with all attendant benefits connected to his service and thereafter, has filed W.P. (MD)No.5093 of 2007 pressing service benefits. The present writ petition order which is impugned in appeal, was passed six years after the order passed in W.P. (MD)No.5093 of 2007. Thereafter, the respondent is not entitled for any benefit based on the order dated 13.05.1997 issued by the Managing Director of the Transport Corporation appointing Anjalose, Senior Superintendent as Assistant Manager Administration (incharge) without any monetary benefit during the incharge period.

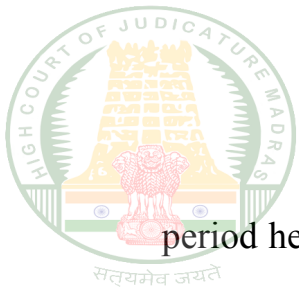
7. This Court after perusing the orders passed by the learned Single Judge in W.P.(MD)No.5093 of 2007 and W.P.(MD)No.6414 of 2014 finds that Anjalose when he preferred W.P.(MD)No.5093 of 2007 had not disclosed that he was asked to officiate as an Assistant Manager (incharge) on condition that he will not be entitled for any monetary benefit and he will be considered for the appointment as Assistant Manager on regular basis only if the Finance Committee and the Board approve it. In the case in hand, the Finance Committee and the Board were not able to proceed further to regularize the appointment of Anjalose,



W.A.(MD)No.1336 of 2019

in view of the pendency of the writ petition filed by Vargees. The said writ petition got dismissed only on 23.06.2006. Soon thereafter, he had been considered for the post of Assistant Manager and been promoted as Assistant Manager on the regular basis with effect from 01.01.2007. Though the Transport Corporation has filed appeal against the order passed in W.P.(MD)No.5093 of 2007, they were not able to get it numbered due enormous delay. Even now, there is no material to show that they have been pressing out the said appeal, except the reference in W.P.(MD)No.5093 of 2007 that writ appeal is filed and pending in S.R. stage. However, this Court holds that the order of the learned Single Judge dated 06.11.2012 was passed without placing the Office Order dated 13.05.1997, and hence Anjalose cannot be given with notional promotion and monetary benefit. At the same time, the service of Anjalose as Assistant Manager (incharge) between 1997 to 2007, till he was promoted as Assistant manager cannot be ignored without any service benefits.

8. Therefore, this Court is of the considered view that the order of the learned Single Judge to be modified to the effect that the service of Anjalose as Assistant Manager (incharge) between May 1997 till December 2006 to be taken as Assistant Manager for the purpose of calculating pensionary benefits and gratuity. It is made clear that Anjalose will not be entitled for any salary for the



W.A.(MD)No.1336 of 2019

period he served as Assistant Manager (incharge). The appellant is directed to re-fix the pension and gratuity, which Anjalose is entitled as per the order and disburse the arrears from the date of his retirement till this date within a period of three months from the date of receipt of a copy of this order.

9. Accordingly, the writ appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[G.J., J.] & [R.P., J.]

20.03.2025

NCC : Yes / No
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WEB COPY



W.A.(MD)No.1336 of 2019

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

mbi

W.A.(MD)No.1336 of 2019

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