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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) No.1339 of 2015

K.Soundarapandiyan

... Appellant

Vs.

1.Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
represented by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Trichy Region,
Trichy.

3.The Branch Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Trichy Cantonment Mofussil Branch,
Trichy.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 02.09.2015 made in W.P.(MD)No.15852 of 2015.

Prayer in WP(MD). 15852/ 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to provide to the petitioner a suitable alternative employment with pay protection, continuity of service, backwages and all other attendant benefits payable from 13.12.2014 to till the date on which he is provided with alternative light duty in terms of section 47(1) of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Appellant : Mr.A.Rahul

For Respondents : Mr.D.Sivaraman

JUDGMENT

(Judgment of the Court was delivered by **V. RAMASUBRAMANIAN, J**)

<https://hcservices.ecourts.gov.in/hcservices/>

The appellant who was employed as a driver in the State Transport Corporation came up with a writ petition seeking a mandamus to direct the respondents to provide alternative light duty in terms of Section 47(1) of the Persons with Disabilities (Equal Opportunities,



Protection of Rights and Full Participation) Act, 1995. But the writ petition was dismissed by the learned Judge, forcing the appellant to come up with the above appeal.

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2. At the outset, the only ground on which the learned Judge dismissed the writ petition is not sustainable. The learned Judge has rejected the writ petition on the ground that the appellant should work out his remedies before the Labour Court on the ground that it was a case of non employment. But in cases where the benefits of Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 are sought, the question of approaching the Labour Court does not arise.

3. Be that as it may, the respondent transport Corporation itself has subjected the appellant to medical examination three times once in a period of six months and found him fit to act as a driver until the next medical examination.

4. Therefore, the only question that remains is as to what should be done to the period between 13.12.2014 upto the date of appellant joining duty pursuant to the present order of reinstatement dated 27.11.2015.

5. Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is a complete protection. As a matter of fact, the respondents after examining the appellant medically, have not found this to be a case of fraudulent claim. They have declared him fit to do driver's duty only for a period of six months. Therefore, the non employment of the appellant during the period of one year is not justified.

6. However, with a view to avoid further complications, learned counsel for the appellant states that his client is not pressing for back wages. Therefore, the writ appeal is disposed of setting aside the order of the learned Judge with the following directions:-

"(i) As per order dated 27.11.2015 passed by the respondent transport corporation, the appellant shall join duty immediately and

(ii) the period of non employment from 13.12.2014, upto the date of appellant joining duty, after deducting any period during which he was given employment shall be treated as duty period for all purposes except a claim for backwages".

No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.



To

1. The Managing Director, Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.

2. The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region,
Trichy.

3. The Branch Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Cantonment Mofussil Branch,
Trichy.

TS/21.12.2015/3P-4C/SK-SKN

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