

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.42315 of 2016

V.Gunasekaran

... Petitioner

Vs.

1.Tamil Nadu State Transport Corporation Ltd.,
Salem Division,
rep. by its Managing Director,
Ramakrishna Road,
Salem-636 007.

2.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Ramakrishna Road,
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the representation of the petitioner dated 25.11.2016 for counting the period of service rendered by the petitioner as a conductor from 01.01.1994 to 12.04.1996 and the period of his non-employment from 13.04.1996 to 25.07.2003 along with his present service from 26.07.2003, for all service and monetary benefits, including the granting of pension under the Old Pension Scheme.

For Petitioner : Mr.R.Prem Narayan
For respondents : Mr.P.Kannan Kumar

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the representation of the petitioner dated 25.11.2016 for counting the period of service rendered by the petitioner as a conductor from 01.01.1994 to 12.04.1996 and the period of his non-employment from 13.04.1996 to 25.07.2003 along with his present service from 26.07.2003, for all service and monetary benefits, including the granting of pension under the Old Pension Scheme.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1. The petitioner was initially appointed as Conductor on daily wages basis, in the 1st respondent-Transport Corporation, on 05.03.1993 and he joined duty on 09.03.1993 at Erumapalayam-II Branch and his Service Number was CC1397. Thereafter, by order dated 05.02.1994 issued by the 2nd respondent, the petitioner's services were regularized in the post of Conductor with effect from 01.01.1994 and he was allotted New Service Number CR2760. He successfully completed his probation on 31.12.1994.

2-2. While so, on 12.0.1996, when the petitioner was on duty, at Salem New Bus Stand, he was standing at the backside of the bus, in which he was on duty as Conductor, and giving changes to the passengers. At that time, the driver of the bus started the engine and negligently reversed the bus, without noticing the petitioner was standing on the rear side of the bus and as a result, the bus ran over his leg, which resulted in fracture in his leg, causing partial disability. Thereafter, the Medical Board declared the petitioner as physically disabled and medically unfit to work as a Conductor. Subsequently, the petitioner was discharged from service by order dated 04.01.1997. Thereafter, the petitioner made representation to the respondents seeking to give alternative employment. Based on the request of the petitioner, the 2nd respondent issued orders on 16.07.2003 appointing the petitioner as Helper. In the appointment order it was stated that his appointment should be treated as a fresh appointment and his previous service shall not be counted for conferring any service benefits. As the petitioner was without employment from 13.04.1996 to 25.07.2003 ie., nearly 9 years, in order to look after his family, he accepted the order of appointment issued by the 2nd respondent. Thereafter, subsequently, the petitioner was once again posted as Conductor and new service number CR3437 was allotted to him.

2-3. It is the case of the petitioner that Section 47(1) of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, categorically prohibits an Establishment from dispensing with order reducing in rank an employee who suffers a disability during his service. Hence, the petitioner made a representation dated 25.11.2016, seeking to count the period of service rendered by him from 01.01.1994 to 12.04.1996 and period of non-employment from 13.04.1996 to 25.07.2003, along with his present service for all service and monetary benefits, including refixation of his salary and seniority and also to bring him under the Old Pension Scheme. Since the petitioner's representation was not considered, the petitioner has come forward with the present writ petition.

3.Heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondents and perused the materials available on record.

4.Considering the limited scope of the prayer sought for by the petitioner in the writ petition, without expressing any opinion on the merits of the claim of the petitioner, this Court directs the 2nd respondent to consider the representation dated 25.11.2016 given by the petitioner and to pass appropriate orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssv

To

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem Division, Ramakrishna Road,
Salem-636 007.

2.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Ramakrishna Road, Salem.

+1cc to Mr.R. Premnaryan, Advocate, S.R.No.70208

mv (CO)
md(03/01/2017)

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