



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2016

C O R A M

WEB COPY

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P. (MD) No. 12420 of 2011

and

M.P. (MD) No. 1 of 2011

S. Shiek Abdullah

.. Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation,
Head Office, Bye Pass Road,
Palanganatham, Madurai District.

2. The General Manager,
Tamil Nadu State Transport Corporation,
Head Office, Bye Pass Road,
Chettinayakanpatti Post,
Dindigul District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings No. 3140, dated 18.02.2011 and quash the same as illegal and consequently to direct the respondents to treat the period from 28.09.2006 to 01.06.2010 as duty period and to pay all attended monetary benefits within the period that may be stipulated by this Court.

For Petitioner	:	Mr. C. Venkatesh Kumar
For R-1	:	Mr. P. Karthick
		for Mr. B. Pugalandhi
For R-2	:	No appearance.

O R D E R

This Writ petition has been filed to call for the records relating to the impugned order passed by the first respondent in his proceedings No. 3140, dated 18.02.2011 and quash the same as illegal and consequently to direct the respondents to treat the period from 28.09.2006 to 01.06.2010 as duty period and to pay all attendant monetary benefits within a time frame.



2. The Writ petitioner while working as a Conductor in the respondent Corporation has suffered Heart Attack and admitted in the hospital. Thereafter, he was declared as unfit to work as Conductor by a duly qualified medical practitioner. However, the management stated that he was fit to work as Conductor and directed him to work. Challenging the order, the Writ petitioner has filed the Writ petition in W.P.No.1703 of 2007 for direction to refer him to Medical Board. This Court directed the respondents to refer the petitioner to Medical Board and the Medical Board has declared that the petitioner was unfit to work as Conductor.

3. The Writ petitioner filed the Writ petition in W.P.No.6327 of 2007, seeking relief to set aside the direction issued by the respondents/Corporation to join duty as Conductor. While admitting the matter, this Court by an interim order dated 05.03.2010, in M.P.(MD)No.1 of 2007, has directed the respondents to refer the petitioner to Medical Board and to take action on the basis of the opinion given by the Medical Board. While, the matter was taken up for final hearing, it was reported that the petitioner was posted at Work Shop. This Court has further directed the respondents to post the Writ petitioner in any other light duty than in Work Shop. The petitioner's request for treating the period during which he was out of employment, as duty period and for further direction to pay wages, was not accepted in view of the limited scope of prayer in the Writ petition, seeking alternative employment. Further, this Court has directed the respondents to give light work and further directed the petitioner to make a representation for the same and the respondents are directed to dispose of the same sympathetically. Thereafter, the Writ petitioner has made a representation on 28.06.2010, seeking compensation for a sum of Rs.10,00,000/- and to pass orders in view of the direction issued by this Court, in W.P.No.6327 of 2007. Thereafter, the Writ petitioner, by an application under Right to Information Act, dated 08.01.2011, sought for certain information. The second respondent has given reply for the queries asked under Right to Information Act by his letter No.3140, dated 18.2.2011. The said reply given by the second respondent is challenged by way of this Writ petition.

4. The reply given under Right to Information Act is not an order, but, an information under the Act. In the present Writ petition, answers were given to the questions is under challenge. The answer to the question No.1 reveals that the leave requested for the period between 28.09.2006 to 01.06.2010 has been rejected and the reasons for rejection was also given. This information cannot be treated as an order, if at all, the Writ petitioner is not satisfied with the reply, he has the right of filing an appeal to the Appellate Authority. If at all the Writ petitioner is aggrieved of any particular order, he should secure that order and challenge the same in the manner known to law. But the Writ



petitioner is on challenging the reply given pursuant to the questions made under Right to Information Act. Even assuming the information provided under Right to Information Act, dated 08.01.2011 is set aside, the same will not entitle the petitioner for the consequential relief sought for by him. The Writ petitioner relied on the Judgment of this Court in **W.A.No.2070 of 2011, dated 26.04.2013**, wherein, it is directed to consider the case of the disabled person as per Section 47(1) of the persons with Disabilities (Equal opportunities, Protection of Rights and full participation) Act 1995, and give all the benefits. The said Judgment can be applied in favour of the petitioner in the event of challenging rejection of the benefits provided under the Act. But unfortunately the petitioner has misdirected himself from availing the opportunity given by this Court in its order in W.P.No.6327 of 2007, dated 09.06.2010 and the present claim is a misplaced one.

5. Without going into the merits of the case, a direction is issued directing the petitioner to make a proper representation to the respondents for availing the benefits under Section 47(1) of the persons with Disabilities (Equal opportunities, Protection of Rights and full participation) Act 1995 and the respondents are directed to dispose of the same in accordance with law within four weeks from the date of receipt of the representation from the petitioner.

6. With the above directions, the Writ petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

pmu

CSL/SS-2/30.11.2016: 3P/1C

ORDER MADE IN

W.P. (MD)No.12420 of 2011

and M.P. (MD)No.1 of 2011

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