

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.31401 of 2017

P.Dhanapalan

.. Petitioner

-vs-

1. The Managing Director
Tamil Nadu State Transport
Corporation (Salem) Limited
No.12, Ramakrishna Road
Salem

2. The General Manager
Tamil Nadu State Transport
Corporation (Salem) Limited
No.12, Ramakrishna Road
Salem

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to pay the petitioner his salary on par with his junior rectifying the pay anomaly based on the petitioner's representation dated 11.10.2017.

For Petitioner :: Mr.M.Selvam

For Respondents :: Mr.R.K.Gandhi

सत्यमेव जयते
ORDER

The petitioner is not able to make out a case for issuing a writ of mandamus as prayed for.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as a Conductor on temporary basis in the respondent-Transport Corporation in the year 1995. After sometime, the petitioner was orally terminated. Therefore, he raised an industrial dispute in I.D.No.641 of 2001 before the Labour Court, Salem and by an award dated 2.5.2005, the Labour Court, Salem directed the respondents to reinstate the petitioner with continuity of service from 3.10.97. Aggrieved by the award passed by the Labour Court, Salem, the respondents

filed Writ Petition No.12339 of 2006 challenging the correctness of the award passed in I.D.No.641 of 2001. This was dismissed. Thereafter, the respondents permitted the petitioner to join duty by order dated 15.12.2006. Subsequently, his services were also regularised in the time scale of pay of Rs.5305-90-6025-100-8225 vide proceedings No.E1/40815/TNSTC(Salem) /2006 dated 19.7.2010. While he was rendering unblemished service as Conductor, unfortunately, he was diagnosed with recurrent L4, L5 disc prolapse of vertebra and he was also advised to undergo surgery. After undergoing surgery, he recovered from the said illness. However, he was unable to join the post of Conductor. Therefore, he came to this Court with W.P.No.19882 of 2015 to provide alternative lighter duty as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Considering the case of the petitioner, this Court, by order dated 7.7.2015, directed the respondent-Corporation to provide alternative employment as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 with a further direction to get a report also from the Medical Board. Finally, he was given alternative employment with lighter duty by order dated 28.1.2017. Under this background, the grievance of the petitioner is that there has been a pay anomaly and justifying the pay anomaly, he has submitted that his junior Mr.A.Chandrasekaran, C.R.No.3364, whose date of appointment being 21.1.98, was drawing a basic salary of Rs.11,490/-, which is more than his salary. Therefore, his representation may be considered.

3. The petitioner is clearly mistaken, because he cannot compare his salary with one Mr.A.Chandrasekaran. The reason is that when the petitioner was refused employment, he approached the Labour Court, Salem raising an industrial dispute and the Labour Court, Salem in I.D.No.641 of 2001, while passing an award on 2.5.2005, directed the respondents to reinstate him with continuity of service from 3.10.97 without backwages and without other benefits. Therefore, when the award passed by the Labour Court clearly shows that he should be given only continuity of service from 3.10.97 without backwages and any other benefits, the petitioner cannot compare his salary with the salary of Mr.A.Chandrasekaran, who has been working from 21.1.98. Hence, the writ petition fails and it is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director
Tamil Nadu State Transport
Corporation (Salem) Limited
No.12, Ramakrishna Road
Salem

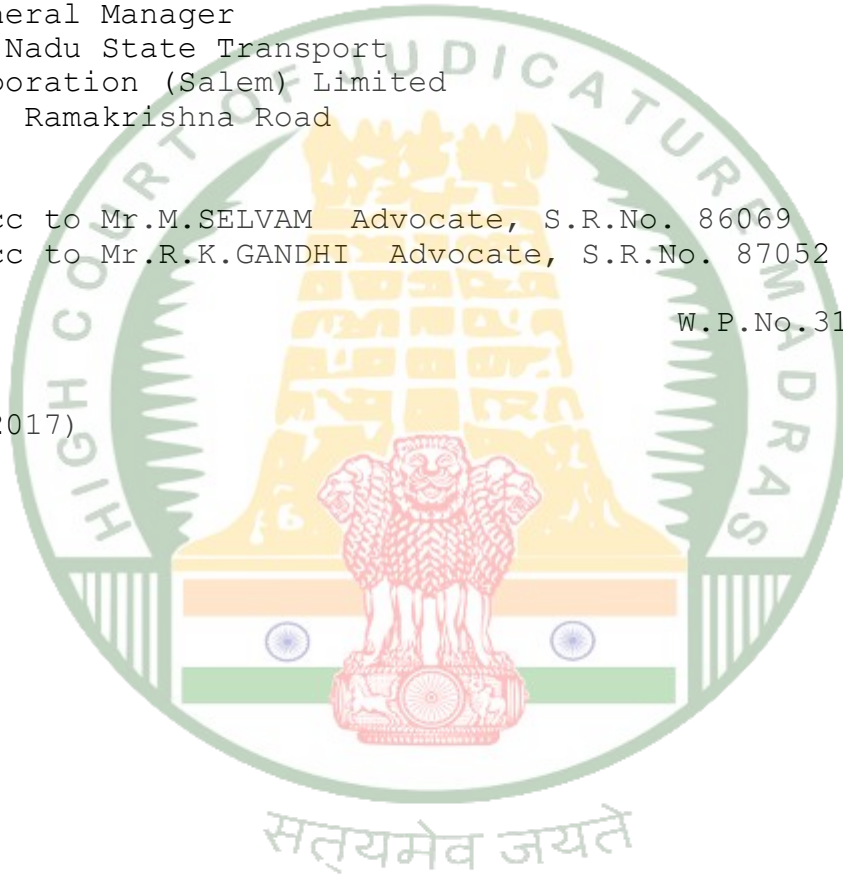
2. The General Manager
Tamil Nadu State Transport
Corporation (Salem) Limited
No.12, Ramakrishna Road
Salem

+1cc to Mr.M.SELVAM Advocate, S.R.No. 86069

+1cc to Mr.R.K.GANDHI Advocate, S.R.No. 87052

W.P.No.31401 of 2017

TR(26/12/2017)



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