



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.06.2017

CORAM:

THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.A.(MD) No.692 of 2017
and
C.M.P.(MD) No.5403 of 2017

The Management of State Express
Transport Corporation (Tamil Nadu) Limited
rep.by its Managing Director
Pallavan Salai, Chennai-600 002 ... Appellant

-vs-

1.J.Rasal Thomas

2.The Administrator
Tamil Nadu State Transport
Employees Pension Fund Trust
Thiruvalluvar Illam
Anna Salai
Chennai-600 002 ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 19.03.2015 in W.P.(MD).No.6223 of 2012, on the file of this Court.

Prayer in WP(MD). 6223/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of CERTIORARIFIED MANDAMUS after calling for the records from the 1st respondent relating to the impugned order No.2013/A7/SETC(TN D-1) 2001 dated 3.9.2001 quash the same and consequently to direct the 1st respondents to provide the petitioner a notional suitable alternative permanent employment with continuity of service and pay protection in accordance with Sec-47 (1) of the persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 from 3.9.2001 and to pay him back wages and all other attendant benefits and to settle all his terminal benefits as if he continued in his service from 03.09.2001 to the date of his superannuation on 30.6.2006 and to further direct the respondents to pay him pension for his entire service from 19.10.1980 to 30.06.2006.

<https://hcservices.courts.gov.in/hcservices> : Mr.K.Sudalaiyandi

For Respondents : Mr.S.Arunachalam for R1



J U D G M E N T

(Judgment of the Court by T.S.SIVAGNANAM, J.,)

Mr.S.Arunachalam, learned counsel accepts notice on behalf of the first respondent.

2. With the consent of both sides, this writ appeal is taken up for final hearing at the admission stage itself.

3. This writ appeal by the Transport Corporation is directed against the order, dated 19.03.2015 in W.P.(MD).No.6223 of 2012, which was filed by the first respondent herein challenging the order of the appellant - Management, dated 03.09.2001 and for a consequential direction upon the appellant - Management to provide him a notional suitable alternative permanent employment with continuity of service and pay protection in accordance with Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter, referred to as "the Act") from 03.09.2001 and to settle all terminal benefits due to him.

4. The Writ Court, after taking note of the mandate in Section 47 of the Act, allowed the writ petition.

5. The appellant - Transport Corporation is before us on the ground that the first respondent did not seek for alternative employment or pay protection under Section 47(1) of the Act prior to he attaining the age of superannuation.

6. The contention raised by the appellant - Transport Corporation is to be rejected for the simple reason that it is the duty cast upon the employer to provide alternative suitable employment with full protection of all service benefits to the employee and the Act does not provide any limitation. Thus, we are of the view that the appellant - Transport Corporation has not made out any ground to interfere with the order passed by the Writ Court.

7. In the result, the writ appeal fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/ True Copy /

Sub Assistant Registrar(C.S.)



TO

+1cc to M/S.K.SUDALAIYANDI, Advocate SR.No.61268

+1cc to M/S.S.ARUNACHALAM, Advocate SR.No.61399

WEB COPY

krk

MAS/JC/SAR2:05.07.2017:3P-3C

W.A. (MD) No.692 of 2017
and
C.M.P. (MD) No.5403 of 2017
21.06.2017