



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **06.07.2017**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.798 of 2017
and
C.M.P.(MD) No.5620 of 2017

The Management of
State Express Transport Corporation
(Tamil Nadu) Ltd.,
Rep. By its Managing Director,
Pallavan Salai, Chennai - 600 002.

: Appellant

Vs.

M.Arumugam

: Respondent

PRAYER: Writ Appeal is filed under clause 15 of the Letters Patent, against the order passed by this Court in W.P.(MD). No.23161 of 2015, dated 22.12.2015.

Prayer in WP(MD). 23161/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent to provide a suitable alternative permanent employment to the petitioner with pay protection, continuity of service, back wages from 02.12.14 and all other attendant benefits in accordance with Sec. 47 (1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and thus render justice.

For Appellant : Mr.K.Sudalaiyandi
For Respondent : Mr.S.Arunachalam

JUDGMENT

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

The management of State Express Transport Corporation Chennai-2 is on appeal challenging order dated 22 December 2015 made in W.P(MD).No.23161 of 2015 filed by the respondent herein.

2.The respondent herein was duly selected in the recruitment process for the post of Driver cum Conductor in the appellant corporation and appointed by order dated 13 March, 2013. He was given training and posted to work at Madurai branch of the appellant Corporation from 18 March, 2014. On 30 November, 2014 he was allotted to work in a bus bearing registration No.TN. 01 - 1003 running between Madurai and Chennai. When the respondent herein was driving the bus on 02 December, 2014, the bus met



with an accident and the writ petitioner / respondent herein suffered serious injuries in his left leg. Crime No.381/2014 was registered on the file of the Padalur Police Station against the offending lorry driver.

3. The writ petitioner took treatment and ultimately his left leg was amputated below the knee. The writ petitioner thus suffered permanent disablement. He is now moving about by using an artificial limb and stick. He approached the appellant Corporation seeking provision of alternative employment, in view of the permanent disability suffered by him. There was no response to the representation made by the petitioner. He therefore filed WP(MD).No.23161 of 2015. The learned Judge rightly invoked Section 47 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and granted relief. The directions issued by the learned single Judge in favour of the petitioner are under challenge in this writ appeal.

4. The learned counsel appearing for the appellant Corporation contended that the writ petitioner / respondent herein was not entitled to claim the benefit under Section 47 of the said Act. This contention deserves to be rejected for the simple reason that the writ petitioner was appointed as Driver cum Conductor after holding a due selection process and that he suffered the said injury during the course of the employment. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is a beneficial piece of legislation. In section 47 of the said Act, it is mandated that no establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service. When the statute did not exclude the temporary employees out of the purview of the applicability of the provision, it is not open to the appellant corporation to raise the contention that the request made by the writ petitioner is not maintainable since he was only a temporary employee. The learned single Judge was right in allowing the writ petition and we see no reason to interfere with the same.

5. This intra Court appeal is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

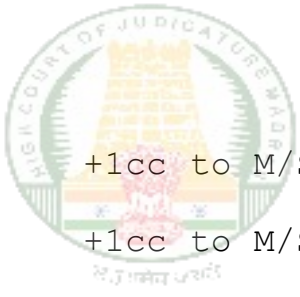
Assistant Registrar(Protocol)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

Managing Director,
State Express Transport Corporation
(Tamil Nadu State Transport Corporation),
Pallavan Salai,
Chennai - 600 002.



+1cc to M/S.S.ARUNACHALAM, Advocate SR.No.64155

+1cc to M/S.K.SUDALAIYANDI, Advocate SR.No.63824

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MAS/KP/SAR3:19.07.2017:3P-4C

ORDER MADE IN
W.A. (MD) No.798 of 2017
and C.M.P. (MD) No.5620 of 2017
06.07.2017