



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) No.21445 of 2017

R.Gopalakrishnan

.. Petitioner

Vs.

1.Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Trichy Region,
Periyamilaguparai,
Trichy.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to provide the petitioner alternative employment on permanent basis with pay protection continuity of service and back wages for the period from 24.04.2017 to 23.05.2017 and from 24.06.2017 to till the date on which he is provided with alternative duty in terms of Section 47 (1) Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995.

For petitioner : Mr.A.Rahul
For respondents : Mr.D.Sivaraman
Standing Counsel

O R D E R

By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.



2. Heard Mr.A.Rahul, learned Counsel appearing for the petitioner and Mr.D.Sivaraman, learned Standing Counsel appearing for the respondents.

3. The Writ Petitioner was working as a driver in the respondent Corporation. He became medically unfit owing to defective vision. He, therefore, could not continue to work as a driver. His disability has been duly certified by the Medical Board also. On account of his physical condition, the writ petitioner was also not given duty as driver for a certain period. The petitioner will have to be given an alternative employment as per Section 47(1) of Persons with Disabilities (Equal Opportunities and Protection of Rights and Full Participation) Act, 1995. The petitioner is also entitled to pay protection. Considering the circumstances which the respondent Corporation is now facing, the learned counsel appearing for the writ petitioner on instructions relinquished his claim for back wages alone.

4. Taking note of the said submission, the following directions are given:

(i) Period from 24.04.2017 to 23.05.2017 and from 24.06.2017 to 18.12.2017 shall be counted for the purpose of other benefits as well as pension benefits.

(ii) the respondent management is directed to pay the Employer's Contribution for the said period to the Pension Trust

(iii) the writ petitioner shall be given alternative employment with due pay protection as if he continued in service without any interruption in service.

(iv) the aforesaid period shall not be counted as leave on loss of pay.

(v) it is made clear that at no point of time the respondent management shall stop assigning work to the writ petitioner.

5. With these directions, the Writ Petition stands allowed. No Costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To:

1.The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.

2.The General Manager, Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Trichy Region, Periyamilaguparai, Trichy.

+One cc to Mr.A.Rahul, Advocate, SR.No.42168

+One cc to Mr.D.Sivaraman, Advocate, SR.No.42479

kmi

RL/5C/2P/KK/SAR1/7/2/2018

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ORDER MADE IN

W.P. (MD) No.21445 of 2017
12.01.2018