



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WEB COPY

W.P. (MD) No.21574 of 2017
and
W.M.P. (MD) . No.17844 of 2017

The Management,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region,
Tiruchirappalli - 620 001,
Represented by its General Manager. ... Petitioner

Vs.

1. The Special Deputy Commissioner,
Chennai -6.

2. A.John Joseph ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records relating to the impugned order passed by the first respondent herein dated 20.11.2015 in A.P.No.66 of 2014, quash the same and further direct the first respondent to consider and pass orders in the above A.P.No.66 of 2014 on merits and in accordance with law within the stipulated time that may be fixed by this Court.

For Petitioner	: Mr.D.Sivaraman
For Respondent No.1	: Mr. J.Gunaseelan Muthiah Additional Government Pleader
For Respondent No.2	: Mr.N.Sudhagar Nagaraj

O R D E R

Heard the learned counsel on either side.

2. The petitioner/Management questions the order passed by the first respondent, declining to grant approval under Section 33 (2)(b) of Industrial Act, 1947. The second respondent was employed as a Driver in the petitioner/Corporation on 17.05.2009, while on duty he caused a fatal accident. In this regard, the charge memo was issued to him on 25.05.2009. He was finally dismissed from service by order dated 08.01.2014. The same was questioned by the second respondent by filing an appeal before the Managing Director, Tamil Nadu State Transport Corporation (Kumbakonam) Limited, The Managing Director of the petitioner/Corporation by order dated 25.02.2014, permitted the second respondent herein to join duty without prejudice to the stand taken by the Corporation in the



approval of the proceedings.

3. Thus when the Approval Petition was taken up for hearing, the second respondent herein was admittedly on duty. This fact was duly recorded by the first respondent. The first respondent took the view that the question of granting approval would arise only if the employee concerned was not in service. When admittedly the employee concerned was in service, the question of granting approval will not arise. The approach adopted by the first respondent herein does not warrant any interference.

4. This Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Special Deputy Commissioner,
Chennai -6.

+1cc to Mr.D.Sivaraman, Advocate in SR. No.48043
+1cc to Mr.N.Sudhagar Nagaraj, Advocate in SR. No.48144
+1cc to SPECIAL GOVERNMENT PLEADER, SR. No.48306
kmi
MK/SB/SAR 2/05.07.2018/2P/5C

ORDER MADE IN
W.P. (MD) No.21574 of 2017
12.02.2018