

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.04.2019

C O R A M

The Honourable Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.24883 of 2006 &
M.P.No.1 of 2007

N.Periasamy Raja

... Petitioner

Vs

The Tamil Nadu State Transport Corporation,
(Salem Division I) Limited,
Rep. by its Managing Director,
Salem.

...Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the Respondent to consider the Petitioner for appointment to the post of Driver as per Section 25-H of the Industrial Disputes Act, 1947 before making fresh recruitment from the open market.

For Petitioner : Mr.S.Jegan for Mr.K.Selvaraj

For Respondent : Ms.Rajeni Ramadoss

O R D E R

This Writ Petition is filed for a Writ of Mandamus directing the Respondent to consider the Petitioner for appointment to the post of Driver as per Section 25-H of the Industrial Disputes Act, 1947.

2. The case of the Petitioner is that he has completed more than 240 days of continuous employment and that, therefore, he is entitled to be considered for appointment as per the orders passed in W.P.Nos.36224 to 36232 of 2005 etc. (Batch) dated 09.12.2005, wherein it was held as follows:

"It is not in dispute that the issue raised in these writ petitions is covered by a Division Bench decision of this Court rendered in Writ Appeal Nos.2985 of 2003 etc., batch dated 08.12.2005. Hence, the

above writ petitions are disposed of with the following directions.

"(a) The Respondent-Transport Corporations has to provide re-employment to the writ Petitioners who completed 240 days in the respective Corporations and satisfied other conditions, if any, in accordance with Section 25-H of the Industrial Disputes Act in preference to new entrants; and

(b) Those (writ Petitioners) who worked less than 240 days shall also be given re-employment and their services will be regularised, only after completion of 240 days and subject to fulfilling other conditions, if any."

3. At the hearing, the learned counsel for the Petitioner submitted that the petitioner is entitled to be considered for appointment in terms of the above mentioned order.

4. In response, the learned counsel for the Respondent submitted that the Petitioner was considered for appointment as per the above mentioned order and as per G.O.(Ms).No.57, Transport Department dated 21.07.2005. The learned counsel for the Respondent further submitted that a call letter was sent to the Petitioner vide Reference No.E1/31753/TNSTC(Salem)2005 dated 13.10.2005 by fixing the interview date as 21.10.2005 and that the Petitioner participated in the interview held on 21.10.2005. On the basis of the interview, it is submitted that the Interview Committee rejected the application of the Petitioner. A counter affidavit to the above effect was also filed.

5. The affidavit, counter affidavit, documents on record and the oral submissions of both sides have been carefully considered.

6. It is evident from the facts on record that the Petitioner was considered for appointment through an interview held on 21.10.2005 and his candidature was rejected by the Interview Committee. In this regard, it is settled law that no person has a vested right to employment. The order of the Division Bench is also subject to the candidate fulfilling conditions, and only mandates that such candidates should be given preference over new entrants. In the instant case, the Petitioner applied for appointment, his application was considered, but he was not selected. As such, the writ petition for a Writ of Mandamus to consider the Petitioner for

appointment as a driver is liable to be dismissed because no further adjudication is necessary in the facts and circumstances.

7.In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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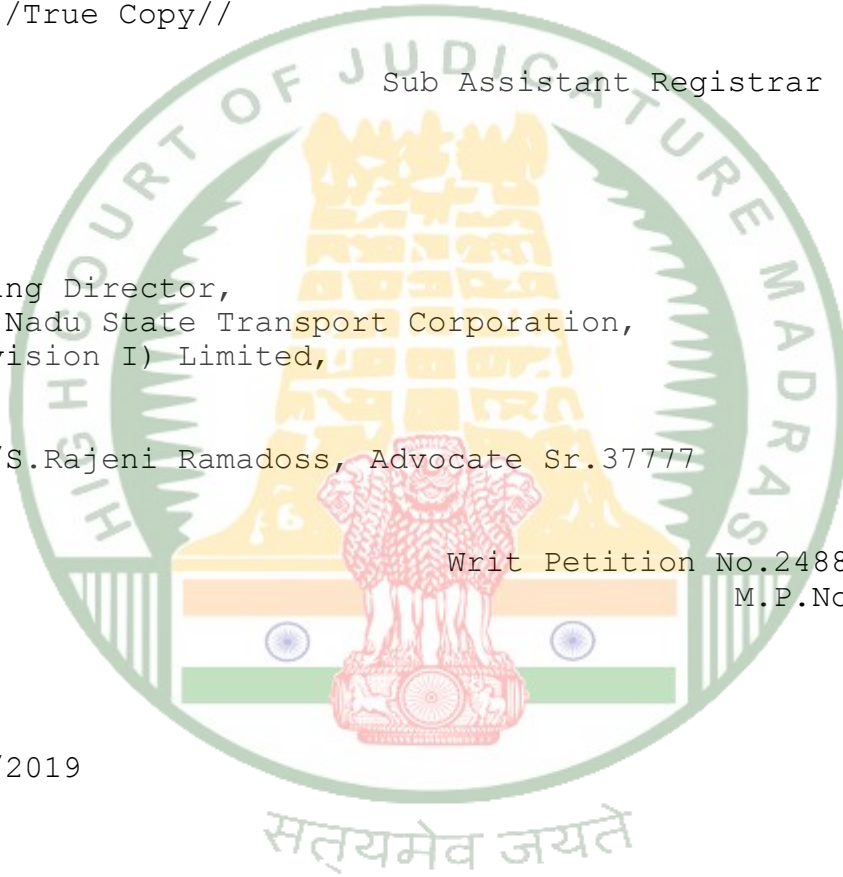
To

The Managing Director,
The Tamil Nadu State Transport Corporation,
(Salem Division I) Limited,
Salem.

+lcc to M/S.Rajeni Ramadoss, Advocate Sr.37777

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