

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2019

CORAM

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.3353 of 2010

S.Murugan

... Petitioner

Vs

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Dharmapuri Region,
No.12, Ramakrishna Street,
Salem.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Dharmapuri Region,
Dharmapuri.
3. The District Employment Officer,
Dharmapuri. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 2nd respondent in Reference No.P.A. 1/ 4952 / TNSTC / D'Puri/2008, dated 11.05.2009 quash the same and direct the respondents 1 and 2 to permit the petitioner to attend and continue the service as a conductor and pay salary and continuation of the service from the date of which the petitioner was not permitted to continue.

For Petitioner : Mr.K.A. Prabakaran

For Respondents : Ms.Rajini Ramadoss for RR1 and 2
Mr.N.Srinivasan,
Addl.Govt.Pleader for R3

ORDER

The instant writ petition is one for certiorarified mandamus calling for the proceedings of the General Manager, Tamil Nadu

State Transport Corporation (Salem) Ltd., Dated 11.05.2009 in Ref. No.P.A. 1 / 4952 / TNSTC / D' Puri / 2008, to direct the respondents 1 and 2 to permit the petitioner to attend and continue the service as Conductor and pay salary.

2. The petitioner states that he is the holder of a regular Conductor's certificate issued by the Licensing Authority and he got registered his name with the District Employment Office, Dharmapuri, on 06.06.1996.

3. The petitioner states that on 31.05.2007, the second respondent being the Tamil Nadu State Transport Corporation (Salem) Ltd., Dharmapuri called the petitioner to appear for the interview on 05.06.2007 for the post of the Conductor. The interview letter was sent to him by the Transport Corporation, on the basis of the list sent by the Dharmapuri District Employment Exchange office.

4. The petitioner further states that he appeared for the interview and he was selected on 26.07.2007 and was directed to appear on 03.10.2007 to produce all the certificates. While so, the petitioner produced all the required certificates and accordingly he was sent for one month training. The petitioner states that after completion of the training, he was appointed as Conductor, on temporary basis, i.e. on daily wages basis. On completion of training, the petitioner was posted as temporary Conductor on daily wages at Bomidi Branch and thereafter in Dharmapuri Town Branch. He also states that on 15.08.2008 when he went for his work he was not assigned any duty. Hence, he gave a representation on 22.10.2008 to the 1st and 2nd respondents. Since, the said representation was not considered, the petitioner filed W.P. No.30661 of 2008 and this Court, by order dated 28.04.2009 directed the first respondent to consider the representation. The representation has been rejected by the order impugned in this writ petition.

5. Heard, the learned counsel on both sides.

6. The learned counsel for the petitioner drawn the attention of this Court to the order dated 28.04.2009 passed in W.P. No.30661 of 2008, wherein, the said order deals with persons similarly placed as the case of the petitioner. The petitioner in W.P. No.30661 of 2008 was selected by the same selection process. The relevant paragraphs of the said order reads as under : -

"The common prayer in the writ petitions is to issue a Writ of mandamus directing the respondents to consider the claims of the petitioners in regard to continuous employment and further direct the

respondents to consider for regular absorption by taking into account of their initial appointment on 26.7.2007 and 1.11.2007 respectively with all consequential benefits.

2. The case of the petitioners is that they were selected and appointed as Conductors in the respondent Transport Corporation that orders of appointments were issued to them that they made necessary deposits and they underwent the training and that thereafter they were appointed on daily rate basis and paid the salary at the end of every month.

3. The grievance of the petitioners is that from August 2008, the petitioners are not given duty and they have submitted individual representations on 22.10.2008 and 13.10.2008 respectively.

4. The learned Senior Counsel for the petitioners submitted that the first respondent may be directed to consider the said representations submitted by the petitioners and pass orders.

5. The learned counsel for the respondents submitted that four weeks time may be given to consider the representations of the petitioners.

6. In view of the said submissions, without expressing any opinion on the merits of the case, the first respondent is directed to consider the respective representations of the petitioners and pass orders on merits and in accordance with law, on or before 31.05.2009.

The writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

7. Since the petitioner's case is of similar in nature to the petitioner in W.P. No.30661 of 2008, the learned counsel for the petitioner prays that similar order may be made applicable to the instant case also.

8. In the result, the Writ Petition is allowed. The impugned order dated 11.05.2009 is set aside. The respondents are directed to issue a fresh notice to the petitioner to afford an opportunity to the petitioner to submit his difference to the allegations contained in the notice. The same shall be done within a period of six weeks from the date of receipt of a copy of this order. The petitioner is permitted to respond to

the notice within four weeks from the date of receipt of the notice. The Transport Corporation / first respondent is directed to resolve the entire issue within four further weeks after the receipt of the reply from the petitioner. The total exercise must be completed within 16 weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Dharmapuri Region,
No.12, Ramakrishna Street,
Salem.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Dharmapuri Region,
Dharmapuri.
3. The District Employment Officer,
Dharmapuri.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.75986
+1cc to Ms.S.Rajini Ramadoss , Advocate, S.R.No.76757
+1cc to the Government Pleader, S.R.No.76884

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SPD(CO)
CS/11/10/2019

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