

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.1.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.6507 of 2011

D.Dhamodharan

...

Petitioner

Vs.

The General Manager

Tamil Nadu State Transport Corporation Ltd.,

(Salem Division - I),

Head Office No.12, Ramakrishna Road,

Salem 636 007.

...

Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records connected with the orders passed by the respondent in Lr.No.9563/Lab 2.2/ TNSTC/2010 dated 25.4.2010 quash the same and also direct the respondent to modify the orders of earned leave and medical leave with salary granted already for the period of leave for injury suffered during the course of employment and to treat the said period as injury leave with salary and also reimburse the medical expenses incurred by him during the course of employment.

For Petitioner : Mr.S.Girija

For Respondent : Mrs.Rajeni Ramadoss  
for Transport Corporation

सत्यमेव जयते  
O R D E R

According to the petitioner, petitioner was working as Conductor in the respondent Transport Corporation since 1992. During the course of employment, the petitioner sustained multiple injuries on his head and legs. After taking treatment in the hospital, he rejoined duty on 1.2.2010. While taking treatment in hospital, on 7.12.2009, petitioner made representation to the respondent requesting to sanction injury leave benefits and reimbursement of medical expenses. However, instead of granting injury leave, the leave period was treated as medical leave and earned leave. Again, the petitioner made representation to the respondent Management to modify the said

order. By letter, dated 25.4.2010, the respondent rejected the request of the petitioner, by stating that request for reimbursement of medical expenses cannot be granted as per the Rules of the Corporation, without referring to any specific rules. Therefore, the petitioner has filed the present writ petition to set aside the impugned order.

2. Learned counsel for the petitioner would submit that as per clause 81 of the Settlement, dated 28.9.1995 reached under Section 12(3) of the I.D. Act before the Joint Commissioner of Labour, Madras, while granting leave to an employee who sustained injury during the course of his employment, the procedure of granting injury leave only after exhausting the earned leave and medical leave on his credit will be avoided. However, the respondent without giving any reason or referring to any specific Rules, passed the impugned order rejecting the request of the petitioner. According to the learned counsel for the petitioner, the impugned order passed by the respondent is a cryptic and non speaking order and the same is liable to be set aside.

3. The respondent has filed counter affidavit wherein it is stated that the respondent was absent from 22.1.2009 to 31.1.2010. He joined duty on 1.2.2010. The petitioner applied leave only on 17.12.2009. The accident occurred during the course of employment cannot be a ground to avail leave for a longer period. The settlement entered on 28.9.1995 was superseded by subsequent settlement. In so far as the claim of reimbursement of the medical expenses, it is left open to the petitioner to seek remedy as per the scheme framed by the Government vide G.O.Ms.No.430, dated 10.9.2007 and G.O.Ms.No.174, dated 28.4.2008.

4. The learned Standing counsel appearing for the respondent Corporation would submit that the petitioner cannot claim injury leave benefit after long absent due to accident. In so far as the reimbursement of medical expenses is concerned, separate order has been passed by the respondent Corporation on 20.4.2011. It is open to the petitioner to challenge the said order.

5. Heard the learned counsel for the petitioner, learned counsel for the respondent and perused the materials available on record.

6. As rightly pointed out by the learned counsel for the petitioner, the respondent without giving any reason or referring to any specific Rules, rejected the request of the petitioner, by passing a cryptic and non speaking order on the representation made by the petitioner. On this ground alone, the impugned order is liable to be quashed in so far as injury leave benefit is concerned. In so far as the reimbursement of

medical expenses, a detailed order has been passed by the respondent on 20.4.2011, however the same is not under challenge in the present writ petition.

7. Therefore, in so far as the injury leave benefit is concerned, the impugned order passed by the respondent Transport Corporation in Lr.No.9563/Lab 2.2/ TNSTC/2010, dated 25.4.2010 is quashed and the matter is remitted back to the respondent Corporation to consider the petitioner's representation afresh, and pass appropriate orders on merit and in accordance with law as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. If necessary, opportunity shall be granted to the petitioner to produce additional documents. In so far as the reimbursement of medical expenses is concerned, it is open to the petitioner to challenge the order passed by the respondent Corporation, dated 20.4.2011, if so advised.

Writ petition is allowed with the above directions. No Costs.

Sd/-  
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The General Manager  
Tamil Nadu State Transport Corporation Ltd.,  
(Salem Division - I),  
Head Office No.12, Ramakrishna Road,  
Salem 636 007.

+1cc to Mr.S.Rajeni Ramadass, Advocate, S.R.No.894  
+1cc to Mr.S.Girija, Advocate, S.R.No. 734

W.P.No.6507 of 2011

CA (CO)  
GN (06/02/2019)