

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 19.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.13018 of 2017
and W.M.P(MD)Nos.10086 & 10087 of 2017

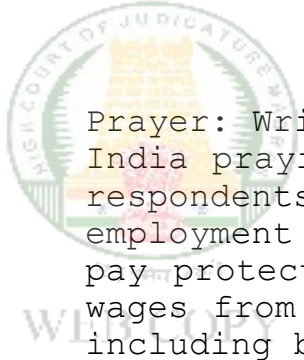
S.Arumugam

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Transport Department, Secretariat,
Chennai - 600 009.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Railway Station Road, Kumbakonam,
Thanjavur District.
- 3.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Karur Region, Karur.
- 4.The Assistant Manager (Personnel),
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karur Region, Karur.
- 5.The Branch Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karur Region, Musiri Branch,
Musiri Taluk, Trichy District.
- 6.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar House, Pallavan Salai,
Chennai - 600 002.
- 7.The Dean,
Annal Gandhi Memorial Government Hospital,
Trichy.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents 1 to 4 to provide the petitioner suitable alternative employment in the fifth Respondent Corporation, Musiri Branch with pay protection, continuity of service and monthly salary with back wages from 11.01.2016 to 17.08.2016 and November, 2016 to till date including back wages with reasonable rate of interest payable to the petitioner as per Section 47(1) of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Petitioner : Mr.N.Sudhagar Nagaraj

For RR 1 to 5 : Mr.D.Sivaraman

For R - 6 : Mr.A.P.Muthupandian

For R - 7 : Mrs.J.Padmavathy Devi,
Special Government Pleader.

ORDER

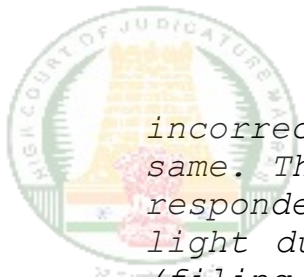
This writ petition has been filed seeking issuance of a writ of Mandamus, to direct the respondents 1 to 4 to provide the petitioner suitable alternative employment in the fifth Respondent Corporation, Musiri Branch with pay protection, continuity of service and monthly salary with back wages from 11.01.2016 to 17.08.2016 and November, 2016 to till date including back wages with reasonable rate of interest payable to the petitioner.

2.Heard the learned counsel appearing for the petitioner; the learned counsel appearing for the respondents 1 to 5; the learned counsel appearing for the sixth respondent and the learned Special Government Pleader appearing for the seventh respondent.

3.The learned counsel appearing for the petitioner submitted that the petitioner was serving as Conductor at Musiri. While so, the petitioner was suffering from coronary artery disease and underwent surgery. Hence, the petitioner sent a representation to the respondents 2 and 3 to refer him to the Medical Board and provide light duty. Since the same has not been considered by the respondents so far, the petitioner has filed the present Writ Petition.

4.A counter-affidavit has been filed by the third respondent, wherein at paragraph Nos.4 and 7, it is stated as follows:-

"4.I submit that the allegations in para 5 of the affidavit that he requested the respondents 2 and 3 to refer me to the Medical Board and provide him light duty and he made several representations to the fourth respondent Musiri Branch in this regard, in person are all denied as false and



incorrect and the petitioner is put to strict proof of the same. The petitioner has not given any representation to the respondents to refer him to Medical Board and provide him light duty. But he was absent from 21.09.2016 to till date (filing this petition) and hence he was issued with a charge memo dated 17.11.2016 levelling the charge that he unauthorisedly absented himself from duty from 21.09.2016 to 23.10.2016 without any prior intimation or permission and he is continuously absent till date (filing this writ petition).

.....

7.The allegations that he was not provided duty by the respondent Corporation and not paid salary with effect from 11.01.2016 to 17.08.2016 and November 2016 to till date with reasonable rate of interest are all false. For the above period ie., 11.01.2016 to 21.08.2016, he was issued with a charge memo levelling the charge that he unauthorisedly absented himself from duty from 11.01.2016 to 21.08.2016 and after observing all formalities, he was punished one year increment postponed with cumulative effect and hence he is not at all liable to pay wages for this period."

5.Such stand taken by the third respondent in the counter-affidavit is now refuted by the learned counsel appearing for the petitioner.

6.In such view of the matter, this Court, without going into the merits of the petitioner's claim, directs the respondents to consider the representation of the petitioner, dated 03.07.2017 and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/ True Copy /

Sub Assistant Registrar (CS)

To

1.The Secretary to Government,
Government of Tamil Nadu,
Transport Department, Secretariat,
Chennai - 600 009.



- 2.The Managing Director,
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- 7.The Dean,
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Trichy.

+1CC to Mr.N.SUDHAGAR NAGARAJ, Advocate(SR-55054[F]dated 19/03/2019)
+1 CC to M/s.D.SIVARAMAN, Advocate(SR-55021[F] dated 19/03/2019)
+1 CC to M/s.SPL GP (SR-55289[F] dated 20/03/2019)

W.P (MD) No.13018 of 2017
19.03.2019

PS
ES/DS/15.04.2019/4P/11C