



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.16623 of 2017

and

W.M.P (MD)No.13231 of 2017

WEB COPY

M.Arumugam

... Petitioner

Vs.

The Management of
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region,
Rep. by its Managing Director,
Trichy.

... Respondent

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondent to provide the petitioner a suitable alternative employment with pay protection, continuity of service and full wages from 12.02.2016, after adjusting the wages given to him from 19.10.16 to 17.05.2017 and all other attendant benefits in accordance with Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mr.D.Sivaraman

ORDER

The petitioner has come out with the present writ petition for a direction to the Respondent to provide alternative employment with pay protection, continuity of service and full wages from 12.02.2016, after adjusting the wages given to the petitioner from 19.10.2016 to 17.05.2017 and all other attendant benefits in accordance with Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. The petitioner while working as a driver in the respondent corporation, met with an accident, when another bus coming in the opposite direction, dashed against the bus driven by the petitioner. The petitioner sustained serious injuries and his left leg/thigh was severely affected and left thigh crushed. The respondent did not monetarily help the petitioner, while he was taking treatment. After recovery of the injuries, the petitioner approached the respondent on 12.02.2016 to provide him alternative employment by showing his disability. The petitioner on 14.06.2016 sent a

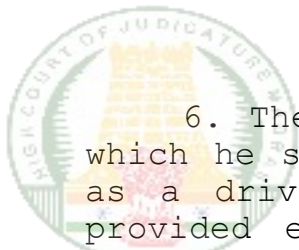


representation to the respondent to provide him employment. The respondent kept quiet and not passed any order. The petitioner was continuously suffering from 12.02.2016 without any work and wages, after completing the treatment. The respondent, by his letter, dated 09.11.2016, referred the petitioner to the Medical Board, District Government Hospital, Trichy. The petitioner appeared before the Medical Board, on 30.12.2016. The Medical Board, Trichy, sent a report to the respondent. In the meantime, the respondent provided light duty from 19.10.2016, directing the petitioner to do the work of diesel filling to the buses at Musiri Branch of the respondent, without any order in writing. While so, on 18.05.2017, when he reported duty and started to perform his work, the Branch Manager of Musiri Branch suddenly denied the work from that date onwards. In view of the same, the petitioner is suffering without any work and wages from 17.05.2017.

3. The learned counsel appearing for the petitioner contended that denial of employment is contrary to Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The respondent is bound to provide suitable job. The petitioner gave representation on 13.06.2016 requesting for alternative employment. Since no order has been passed, the petitioner has come out with the present writ petition.

4. Mr.D.Sivaraman, learned counsel appearing for the respondent filed counter affidavit and contended that considering the representation of the petitioner, dated 13.06.2016 requesting for alternative employment, he was given light duty from 19.10.2016. Then, the petitioner was referred to Medical Board, Annal Mahatma Gandhi Memorial Government Hospital. In the report, the percentage of disability suffered by the petitioner, was not mentioned. Therefore, again, the petitioner was directed to appear before the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai. The petitioner appeared before the Medical Board on 24.08.2018 and again on 07.09.2018. The respondent has provided the light work and he is working till date. The learned counsel for the respondent denied that the respondent has not helped monetarily for the treatment. The petitioner filed two claim petitions in E.C.No.52 of 2016 before the Deputy Commissioner of Labour, Trichy, claiming a sum of Rs.4,42,394/- as compensation for the injuries sustained by him and M.C.O.P.No.516 of 2015 before the Motor Accident Claims Tribunal, claiming a sum of Rs.30,000/- as compensation, for the injuries sustained by him and prayed for dismissal of the writ petition.

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



6. The grievance of the petitioner is that due to the injury, which he suffered in the accident on 12.12.2015, he could not work as a driver, as he was doing earlier. The respondent has not provided employment with pay protection and allowances. In the affidavit, the petitioner has stated that he was given light work in the Musiri Branch to fill up the diesel to the buses from 19.10.2016 to till 17.05.2017 and thereafter, he was not given work and not paid with wages.

7. On the other hand, it is the contention of the respondent that the petitioner was given light work from 19.10.2016 and subsequently, he was appointed and he is working from 25.02.2019 in Theeran Nagar Fitness Section, Theeran Nagar. According to the respondent, as the Medical Board, Trichy, did not mention the percentage of disability suffered by the petitioner, in the report, he was referred to Medical Board, Chennai and the petitioner was examined on 24.08.2018 and 07.09.2018. The respondent has not stated the particulars of the report of the Medical Board. The respondent has not stated in the counter affidavit or has not filed any statement of payment of salary to the petitioner. When the petitioner has alleged that he was not given work from 17.05.2017, it is the duty of the respondent to furnish the particulars of the nature of work given to the petitioner and the wages paid to him. The respondent has not stated that the petitioner is paid with the salary payable to the driver, working in the respondent corporation. The respondent has not stated the salary paid to the petitioner after giving alternative employment. A counter affidavit filed by the respondent is bereft of particulars.

8. In such circumstances, the petitioner is entitled to the relief sought for in the writ petition. The respondent is directed to provide alternative employment based on the report of the Medical Board and to pay the salary payable to the driver working in the respondent corporation from 12.02.2016 to till date and continue to pay the salary together with all allowances and attendant benefits after deducting the wages already paid for the period from 19.10.2016 to 17.05.2017.

9. With the above directions, the writ petition is allowed and the respondent is directed to pay the arrears of salary, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.S)

// True Copy //

Sub Assistant Registrar(CS)



To

The Managing Director,
TNSTC (Kumbakonam),
Trichy Region,
Trichy.

+1 CC to M/s.D.SIVARAMAN, Advocate SR-87069.
+1 CC to M/s.S.ARUNACHALAM, Advocate SR-88086.

W.P. (MD) No.16623 of 2017
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