



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.16751 of 2017

and

W.M.P (MD) .No.13362 of 2017

S.Sivanantham

... Petitioner

-Vs-

The Management of

Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,

Trichy Region

Represented by its Managing Director

Trichy

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to provide a suitable permanent alternative employment to the petitioner with pay protection, continuity of service and wages from 13.06.2017 together with 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 writ petition has been filed for a direction to the respondent to provide a suitable permanent alternative employment to the petitioner with pay protection, continuity of service and wages from 13.06.2017 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. Heard Mr.S.Arunachalam, learned counsel appearing for the petitioner and Mr.D.Sivaraman, learned counsel appearing for the respondent.

3. The petitioner was working as a Conductor in the respondent Corporation from 03.10.1984. He was suffering from stomach cancer and took treatment in the hospital, by name Kumaran Hospital at Chennai on 07.04.2015. During treatment, the Doctors informed the petitioner that he can do only light work. After taking treatment, the petitioner reported for duty on 04.05.2015 and requested the respondent to provide him suitable alternative employment, by stating his health condition. The respondent referred the petitioner to the Medical Board at Trichy. After receiving report from the Medical Board, the respondent orally directed the petitioner to perform the work of 'Loading Mass at Bus Stop'. Subsequently, on 19.08.2015, the respondent orally asked the petitioner to work at storeroom. The petitioner represented that due to ill health, he cannot do the work at storeroom and requested the respondent to continue him to work in the Loading Mass at Bus Stop. The respondent has denied the work from 19.08.2015, on the ground that his health condition was not suitable to perform the work and has not paid salary from that date onwards. Thereafter, the respondent once again, directed the petitioner to appear before the Medical Board. Accordingly, the petitioner appeared before the Medical Board. After enquiry, the Board recommended to give alternative light duty to the petitioner. Even thereafter, the respondent has not given any alternative employment to the petitioner. Therefore, the petitioner sent a representation to the respondent on 13.06.2017. So far, the respondent has not provided any alternative work to the petitioner. Hence, the petitioner has come out with the present Writ Petition.

4. In the counter affidavit filed by the respondent, there is no denial of the averments made by the petitioner. The petitioner has specifically stated that the respondent has not provided any alternative work from 19.08.2015 and has not paid the salary and these averments are not specifically denied by the respondent. The learned counsel for the respondent submitted that from 19.08.2015 to 30.09.2015 and subsequently, from 13.06.2017 to 21.08.2017, the petitioner was not given any work and not paid with salary. The same was not denied by the respondent. He submitted that from 22.08.2017, the petitioner is given alternative employment in the 'Loading Mass at Bus Stop' .

5. Considering the fact that the respondent has not specifically denied the averments made by the petitioner, the respondent is directed to provide suitable alternative employment to the petitioner and pay the salary for the period from 19.08.2015 to 30.09.2015 and from 13.06.2017 to 21.08.2017 and other attendant benefits, within a period of eight(8) weeks from the date of receipt



6. Accordingly, this Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

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/TRUE COPY/

Sub Assistant Registrar

msa

To

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-88958[F] dated 24/09/2019)

+1 CC to M/s.S.ARUNACHALAM, Advocate (SR-89719[F] dated 26/09/2019)

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and

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24.09.2019

JM/25.10.2019/3P/3C