



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.15575 of 2013

and

M.P(MD).Nos.1 and 2 of 2013

WEB COPY

U.Senthilkumar

... Petitioner

-Vs-

The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
rep., by its General Manager,
Kumbakonam.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent passed in TNSTC/Kumba/E4/410/2013 dated 18.05.2013 quash the same and consequently to direct the respondent to provide the petitioner an alternative employment suitable to his disability and health condition by taking note of his earlier appointment as Conductor and his educational qualification with pay protection, continuity of service, back wages from 12.06.2011 and all other attendant benefits in accordance with Section 47(1) of the Person with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Petitioner : No appearance

For Respondents : Mr.D.Sivaraman
Standing Counsel

ORDER

The writ petition was listed for hearing on 06.10.2020 and none appeared for the writ petitioner both physical hearing and virtual hearing, again it was adjourned to 08.10.2020 and on that day, this Court passed an order there was no representation on behalf of the writ petitioner either through video conferencing or through physical hearing and the writ petition is kept pending for about 7 years. Sufficient facilities are provided to the litigant and for the learned counsel to appear before this Court either through virtual hearing or through physical hearing and inspite of that, there was no appearance. The Registry was directed to issue notice to the petitioner directing him either through appear in person or through video conferencing enabling this Court to proceed with the case.



2. When the matter is taken up today i.e., 05.11.2020, none appeared for the writ petitioner. Thus, the learned counsel for the respondent is permitted to argue the matter.

3. The order, dated 18.05.2013 providing alternate employment to the writ petitioner in the post of Helper without backwages and without continuity of service is under challenge in the present writ petition.

4. The petitioner was appointed as Conductor on 01.11.2010 on daily wages basis. When the petitioner was working as daily wages employee, he met with an accident on 11.06.2011, subsequently, through the impugned order, dated 18.05.2013, he was provided with an alternate employment and his services were regularised in the post of Helper and now working as the permanent employee of the transport corporation.

5. The grievances of the writ petitioner is that alternate employment appointing him in the post of Helper was granted without backwages and without continuity of service. Thus, his service must be regularised with effect from the date of temporary appointment on daily wages basis.

6. This Court is of the considered opinion that even at the time of accident on 11.06.2011, the petitioner was working as daily wages employee. The Transport Corporation itself has considered the case of the writ petitioner, inspite of the fact that he was a daily wages employee and provided an alternate employment in the post of Helper and subsequently, regularised from the date of appointment as Helper in proceedings, dated 18.05.2013. Providing of appointment in the post of Helper as fresh entrance itself is a concession shown by the respondent management. In view of the fact that the writ petitioner was engaged as a daily wages employee, he cannot seek backwages in the permanent post or continuity of service. The permanent status in the Helper was granted by appointing the petitioner as a fresh candidate in proceedings dated 18.05.2013, then such an appointment itself is a concession, the writ petitioner cannot claim backwages or continuity of service.

7. This being the factum, the relief as such sought for in the present writ petition is not entertainable and accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



TO:

The General Manager,
The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-21248[F] dated 05/11/2020)

W.P. (MD).No.15575 of 2013

05.11.2020

VR (CO)

NR (18/11/2020) 3P : 3C