



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2020

CORAM:

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**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) .No.1739 of 2014

M.R.Natarajan

... Petitioner

-Vs-

1. State Express Transport Corporation Tamil Nadu Limited,  
Represented by its Managing Director,  
Pallavan Salai,  
Chennai-600 002.

2. The General Manager,  
State Express Transport Corporation Tamil Nadu Limited,  
Pallavan Salai,  
Chennai-600 002.

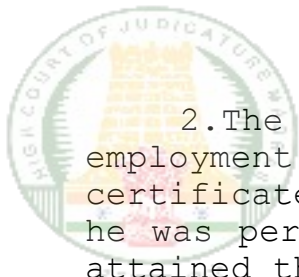
... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the period of the service of the petitioner from 26.08.2013 to 06.10.2013 as duty with pay and also extend the benefit of continuity of service and pay wages for the said period in accordance with Section 47(1) of Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

|                |                    |
|----------------|--------------------|
| For Petitioner | : Mr.A.Rahul       |
| For R1         | : No Appearance    |
| For R2         | : Mr.K.Sathyasingh |

**ORDER**

The relief sought for in the present writ petition is to direct the respondents to regularize the period of service of the writ petitioner from 26.08.2013 to 06.10.2013 as duty with pay and also extend the benefit of continuity of service. Pursuant to the certificate issued by the competent medical board, the petitioner was declared unfit to perform the duties and responsibilities attached to the post of Driver in Transport Corporation.



2.The grievances of the writ petitioner is that no alternate employment was provided immediately based on the medical board certificate and subsequently, pursuant to the order of this Court, he was permitted to join duty on 06.10.2013. The writ petitioner attained the age of superannuation and retired from service.

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3.The learned counsel appearing on behalf of the writ petitioner states that the period in between 26.08.2013 and 06.10.2013 was treated as leave on loss of pay. However, the said period has not been taken into consideration as qualifying service for the purpose of calculating the pension and pensionary benefits. Once the period of service is regulated even as loss of pay, the said period is to be treated as qualifying service for all purposes including for calculation of pension and pensionary benefits.

4.This Court is of the considered opinion that admittedly, the writ petitioner was not on duty from 26.08.2013 to 06.10.2013. No alternate employment was given during that period. The medical board declared the petitioner as unfit for driver post. Thus, there was an administrative delay in providing alternate employment. For such a delay, the writ petitioner cannot be penalised. However, the pay for the said period need not be granted as the principles of "No Work No Pay" can be applied. However, the said period is to be treated as qualifying service for all purposes including grant of pension and pensionary benefits. This being the factum, the respondents are directed to count to the period of services of the writ petitioner from 26.08.2013 to 06.10.2013 as qualifying service and accordingly, recalculate the pension and pensionary benefits and settle the arrears of pension and pensionary benefits within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioner is permitted to submit a detailed representation setting out the facts and circumstances to the respondents.

5.With these directions, the writ petition stands allowed. No costs.

Sd/-

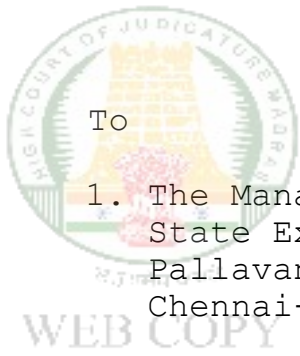
Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

Sji



To

1. The Managing Director,  
State Express Transport Corporation Tamil Nadu Limited,  
Pallavan Salai,  
Chennai-600 002.

2. The General Manager,  
State Express Transport Corporation Tamil Nadu Limited,  
Pallavan Salai,  
Chennai-600 002.

+1 CC to Mr.A.RAHUL, Advocate SR-20193.

**W.P. (MD) .No.1739 of 2014**  
**13.10.2020**

SSS(CO)  
CS(22.10.2020) 3P 4C