



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.01.2020
CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.25943 of 2019 and
WMP Nos.22467 AND 22470 of 2019

P.Muthaiah : Petitioner
Vs

1. The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd
Rep by its Managing Director
Kumbakonam
2. The General Manager
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd
Karaikudi Region
Karaikudi
3. The Branch Manager
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd
Ulaganeri Branch
Madurai
4. Mr.Nagarajan
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd
Ulaganeri Branch
Madurai

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration declaring the action of the respondents in denying employment to the petitioner in the post of Driver as illegal and arbitrary and unconstitutional and consequently to direct the respondents to restore/reinstate the petitioner in service in the post of Driver with continuity of service, back wages and all other attendant benefits payable from 15.11.2019, the date of disengagement to till the date of providing duty.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.P.Balasubramanian
Standing Counsel



O R D E R

This Writ Petition has been filed to direct the respondents to reinstate the petitioner into service in the post of Driver with continuity of service, back wages and all other attendant benefits payable from 15.11.2019, the date of disengagement to till the date of providing duty.

2. The petitioner herein is a permanent employee of the first respondent Corporation. On 05.10.2019, an accident had occurred, whereby the victim in the accident died on 10.10.2019. The petitioner herein who was the driver at the relevant point of time was placed under suspension on 14.10.2019. Subsequently, on 12.11.2019, the respondents had revoked the suspension order and directed the petitioner to report for duty from 14.11.2019 onwards and that he must be subjected to further training.

3. It is the case of the petitioner that though he had reported before the respondents on 14.11.2019, no work was assigned to him. It is also further case of the petitioner that the respondents herein are insisting him to appear before the police, where the criminal case is pending against him and obtain a No Objection Certificate.

4. The learned counsel for the petitioner submitted that once the petitioner's suspension order is revoked, the respondents ought to have assigned some duty to the petitioner. Further, it is submitted that the petitioner is also entitled to back wages and all other attendant benefits from the date of revocation of suspension.

5. On the other hand, the learned Standing counsel appearing for the respondents submitted a letter sent by the Sub-Inspector of Police, Traffic Investigation Wing II, Madurai to the Branch Manager of Tamil Nadu State Transport Corporation Ltd, Ulaganeri Branch, Karaikudi stating that the petitioner has to hand over his driving license to the concerned police, who is investigating the criminal case initiated against the petitioner.

6. Heard both sides and perused the documents.

7. It is not in dispute that the petitioner's original suspension order came to be revoked on 12.11.2019. While that being so, there is a duty cast upon the respondent Corporation to assign some job to the petitioner in the absence of any subsequent termination or suspension orders. The learned counsel for the petitioner had also produced the copy of the letter addressed to the petitioner from the third respondent, wherein he was called upon to produce 'No Objection Certificate' from the concerned jurisdictional police, who are investigating into the accident case.



8. This Court is unable to apprehend as to how the concerned jurisdictional police will be in a position to give 'No Objection Certificate', when the criminal case itself is pending. Further more, there are no rules or regulations imposing such a condition on the petitioner to produce 'No Objection Certificate' from the police. This Court in various decisions have already held that surrender of the driving license before the investigating officer is impermissible, before completion of the criminal case. While that being so, there is no justification on the part of the respondents to direct the petitioner to obtain 'No Objection Certificate' from the police. Now that the suspension order of the petitioner has been revoked, logically the respondents ought to have assigned some duty to the petitioner. Refusal to assign duty would also amount to denial of employment, which is illegal. The respondents are at liberty to subject the petitioner to further training in driving, if necessary. It is now brought to the notice of this Court that the petitioner had already made representations seeking assignment of duty on 18.11.2019 and 22.11.2019 and the same are kept pending with the third respondent herein.

9. In the light of the above observations, there shall be a direction to the third respondent to consider the representation of the petitioner dated 18.11.2019 and 22.11.2019 and assign him with some duty, preferably within a period of two weeks from the date of receipt of copy of this order. It is needless to point out that the petitioner shall be entitled for full wages from the date of revocation of suspension order.

10. With the above direction, this Writ Petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Managing Director
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd
Kumbakonam

<https://hcservices.ecourts.gov.in/hcservices/>



2. The General Manager
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd
Karaikudi Region
Karaikudi

3. The Branch Manager
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd
Ulaganeri Branch
Madurai

+1 CC to Mr.A.RAHUL, Advocate (SR-49[F] dated 02/01/2020)

+1 CC to Mr.P.BALASUBRAMANIAM, Advocate (SR-253[F] dated
06/01/2020)

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