

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.02.2021

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.5882 OF 2020

C.P.Karthik

... Petitioner

vs.

1. The Managing Director,
The Metropolitan Transport Corporation
(Chennai) Limited,
"Pallavan House",
P.B.No.390, Anna Salai,
Chennai 600 002.
 2. The Branch Manager,
Perambur Bus Depot,
The Metropolitan Transport Corporation
(Chennai) Limited,
Perambur, Chennai 600 011.
- Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st Respondent herein to consider the representation of the Petitioner, dated 13.02.2020 within a reasonable time.

For Petitioner : Mr.S.R.Karthikeyan

For Respondents : Mr.Stephen
for Mr.K.Moorthy

ORDER

Petitioner has come up with this Writ Petition seeking a direction to the 1st Respondent herein to consider his representation dated 13.02.2020 within a reasonable time.

2. According to the Petitioner, he joined the services of the Respondent-Transport Corporation as a Conductor on 03.08.2009 and his employment was confirmed by an order dated 25.04.2012. While so, for administrative reasons, he was transferred from Madhavaram Bus Depot to Kundrathur Bus Depot vide order dated 07.12.2015. It is further stated by the

Petitioner that, he was not allotted duty from 23.11.2019 to 02.12.2019. The Petitioner has also raised an Industrial Dispute and that, before the Labour Commissioner, it is stated that, the Management has given an undertaking that, they will give due regularization and the matter was closed as 'settled'. Pursuant thereto, the Petitioner was allotted work for three days between 09.02.2020 and 11.02.2020 and thereafter, he was not provided with any job.

3. Learned Standing Counsel appearing for the Respondents submitted that, the Petitioner was not willing to come forward and make unnecessary averments against the Management and that, he is not willing to report for work.

4. In order to give a quietus to the matter, this Court asked the Petitioner to file an Affidavit and the Petitioner has filed an Affidavit to the effect that, he is willing to report for work and in case of any error on the part of the Petitioner in performing duty, he may be subjected to disciplinary action based on the principle of 'No Work No Pay'.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. The fact that, the Petitioner joined the services of the Respondent-Transport Corporation and got transferred and was later allotted work, are not in dispute. Whether there is fault on the part of the Petitioner in not discharging duties or the Management has decided not to allot duty is a disputed question of fact, which needs to be adjudicated before the appropriate Labour forum.

7. This Court questioned the learned counsel for the Petitioner as to whether the Petitioner is willing to give up backwages alone for the period in question, so that, the matter could be given a quietus to, and the Petitioner has agreed for the same. Had the Petitioner not agreed for the same, this Court would not have entertained the Writ Petition and would have dismissed the Writ Petition on the ground of alternative remedy and would have directed the Petitioner to approach the Labour forum.

8. Learned Standing Counsel appearing for the Respondent submitted that, any order may be passed depriving wages to the Petitioner on the principle of "No Work No Pay" and the Respondents may be directed to consider the case of the Petitioner in providing a job.

9. Taking note of the submissions of the learned counsel on either side, this Court directs the petitioner to report for

work on or before 19.02.2021 and the Respondent-Transport Corporation is expected to provide a job to the Petitioner and the Petitioner is expected to discharge his work and earn wages, on the principle of "No Work No Pay".

10. It is made clear that, the Petitioner will not be entitled to wages for the period he has not rendered any service. However, such period will be counted for all other purposes and shall not be treated as 'dies non'. However, this Court makes it very clear that, the Petitioner will be entitled to wages during the lockdown period on account of COVID-19, i.e. from April 2020 to September 2020.

This Writ Petition is disposed of with the above direction and observation. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Managing Director,
The Metropolitan Transport Corporation
(Chennai) Limited,
"Pallavan House",
P.B.No.390, Anna Salai,
Chennai 600 002.
2. The Branch Manager,
Perambur Bus Depot,
The Metropolitan Transport Corporation
(Chennai) Limited,
Perambur, Chennai 600 011.

+1cc to Mr.S.R.Karthikeyan, Advocate, S.R.No.6855

W.P.No.5882 of 2020

KV(CO)
CS/09/02/2021