



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM:

THE HONOURABLE DR JUSTICE ANITA SUMANTH

W.P. (MD) No.8230 of 2018

R.Venkatachalapathy

... Petitioner

Vs.

The Management of
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Rep. by its Managing Director,
Kumbakonam

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondent to provide the petitioner a suitable permanent alternative employment with protection, continuity of service and full wages from 01.09.2017 after adjusting the wages given to him for the period from 12.10.2017 to 27.10.2017 and all other attendant benefits in accordance with Section 20(4) of the Rights of Persons with Disabilities Act, 2016.

For Petitioner	:	Mr.S.Arunachalam
For Respondent	:	Mr.D.Sivaraman
		Standing Counsel

O R D E R

The petitioner, who was working as permanent Driver in Tamilnadu State Transport Corporation, seeks a mandamus to provide him with suitable alternative employment since, he has been incapacitated on account of an injury and is not fit for work as Driver. Request of the petitioner for alternative employment is in terms of the Rights of Persons with Disabilities Act, 2016 (Act).

2. As admitted by the learned counsel for the petitioner, the petitioner has been accommodated in the post of Helper, though the employment appears to be adhoc and no regular employment order has been issued to the petitioner thus far. To this extent, the petitioner has also filed a representation seeking permanent appointment before the respondent on 07.02.2018 duly received and acknowledged by the respondent, which is stated to be pending.

3. No counter is filed in the matter and neither has Mr.D.Sivaraman, learned counsel appearing for the respondent any specific instructions.



4. The provisions of Section 20(4) of the Act specify that there shall be non-discrimination in employment and reads as follows:

20. Non-discrimination in employment

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service.

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay-scale and service benefits.

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

5. The claim of the petitioner appears, *prima facie*, to be in line with Section 20(4) of the Act, that stipulates that no Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service. Seeing as that the petitioner has received no order of employment till date and his representation is yet pending, let the representation be disposed by the respondent within a period four(4) weeks from date of uploading this order upon the official web-site of this Court, after hearing the petitioner. In doing so, the respondent shall adhere to, and apply scrupulously, all applicable provisions of the Act. Should it come to that, the respondent shall create a supernumerary post for the purpose of accommodating the petitioner. As regards employment benefits, let the same be computed taking into account his past service, simultaneous with the disposal of the representation and paid over within eight (8) weeks thereafter.

6. This Writ Petition is disposed as above. No costs.

7. Post on 14.12.2021 for reporting compliance.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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



To,
The Managing Director,
Management of Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam.

COPY TO:-

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D. SIVARAMAN, Advocate (SR-34883[F] dated 17/11/2021)

W.P. (MD) No.8230 of 2018

15.11.2021

VR (CO)

GC (26.11.2021) 3P 4C