



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.3058 of 2017

and

W.M.P. (MD)No.2435 of 2017

WEB COPY

K.Sathish

... Petitioner

vs.

1.The Tamil Nadu State Transport
Corporation (Kumakonam) Limited,
represented by its Managing Director,
Kumbakonam, Thanjavur District.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region, Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, to declare 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 reinstate the petitioner in service in the post of driver with continuity of service, back wages and all other attendant benefits.

For Petitioner : Mr.C.K.Chandrasekar
for Mr.A.Rahul

For Respondents : Mr.D.Sivaraman

O R D E R

This Writ Petition is filed for issuance of a Writ of Declaration to declare 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 reinstate the petitioner in service in the post of Driver with continuity of service, back wages and all other attendant benefits.

2.Heard Mr.C.K.Chandrasekaran, learned Counsel for the petitioner and Mr.D.Sivaraman, learned Counsel for the respondents.

3.The petitioner has registered his name in Employment Exchange for getting employment for the post of Driver. An advertisement was issued by the first respondent in the leading



Tamil dailies on 02.11.2014 inviting application from eligible candidates for appointment to the post of Reserve Driver. Thereafter, the petitioner submitted his application, dated 25.11.2014. The petitioner was selected and a call letter was issued to him on 25.03.2015 asking to appear for certificate verification. The petitioner was also asked to remit a sum of Rs.3,000/- towards training fees. After certificate verification and remittance of a sum of Rs.3,000/- towards training fees, the petitioner was found fit to be a Driver. Upon medical examination, he was allowed to undergo training for about 30 days from 27.06.2015 to 29.07.2015. It is admitted by the petitioner that after completion of training, he was directed to join duty in Kumbakonam Region of the first respondent Corporation, by oral order on 13.10.2015.

4.It is the case of the petitioner that he could not join duty due to his illness (jaundice). It is the further case of the petitioner that no written order of appointment was issued to the petitioner and that it was informed to him that such order will be given only after the General Election. It is further stated that the petitioner approached the respondents for many times for getting appointment and that he was not given. Thereafter, the petitioner submitted a written representation, dated 23.01.2017 to the respondents. Since the respondents did not consider the representation of the petitioner, the petitioner has approached this Court with the above prayer.

5.The learned Counsel for the petitioner relied upon a judgment of this Court in W.P.(MD)No.18918 of 2016, dated 19.10.2016, wherein, this Court directed the petitioner therein to report duty before the respondents therein within a period of two weeks from the date of receipt of a copy of that order and further directed the respondents to consider the posting of the petitioner therein within two weeks thereafter. The case of the petitioner therein is slightly different. He was never asked to report duty after selection. However, a posting order was produced before this Court. Hence, this Court is of the view that the judgment relied upon by the learned Counsel for the petitioner may not be a useful precedent to support the case of petitioner.

6.The learned Counsel for the respondents placed arguments on the basis of the stand taken by the respondents in the counter affidavit. It was pointed out that the petitioner was directed to join duty in Kumbakonam region of the first respondent Corporation and that he did not join duty, as directed by the respondents. It is their positive case that the petitioner, after the lapse of 1½ years, had given representation to the respondents on 23.01.2017. This Court has to consider the case of the petitioner in the light of the facts admitted.



7.From the counter affidavit filed by the respondents, it is seen that the petitioner did not join duty at the first instance, when an oral communication was given to the petitioner. The petitioner himself has admitted that he could not join duty due to his illness. The petitioner may have valid reasons or excuse for joining duty and it should be considered based on the facts. The respondent Corporation has advertised for the post of reserve Driver. The respondents are State Transport Corporation and may require sufficient man power at regular intervals for the post of Driver. In this case, following due process of selection, the petitioner was selected and completed training for a period of one month at his cost. In such circumstances, the candidature of the petitioner can be considered, if there is vacancy irrespective of the unfortunate situation under which the petitioner was put to. In such circumstances, this Court, instead of giving positive direction to the respondents, is of the view that the respondents can be directed to consider the representation of the petitioner, dated 23.01.2017 and to pass appropriate orders on merits and in accordance with law.

8.Accordingly, this Writ Petition is disposed of with the direction to the second respondent to consider the representation of the petitioner, dated 23.01.2017, and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

Cmr

TO:

The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region, Trichy.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-29215[F] dated 15/09/2021)

+1 CC to M/s.A.RAHUL, Advocate (SR-29279[F] dated 16/09/2021)

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RD(24.09.2021) 3P 4C