



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.01.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

W.P.[MD].No.21833 of 2021

WEB COPY

N.Arumugam

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam,
Thanjavur District.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Pudukottai,
Pudukottai District.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to re-fix the pension and arrive at correct pensionary benefits of the petitioner by providing yearly increment and review of salary on par with driver of the Corporation.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.K.Jagadeesh Balan

ORDER

This Writ Petition has been filed directing the respondents to re-fix the pension of the petitioner and provide pensionary benefits to him.

2. The learned counsel for the petitioner submits that the petitioner was appointed as a Driver in the first respondent Corporation on 22.06.1998 and retired from service on 01.04.2020. During his service, he was suffering with eye vision and he made representation before the respondents Corporation for alternative employment under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter "said Act" for the sake of brevity). The same was considered by the respondents after referring this petitioner to the Medical Board and the petitioner was provided with alternative employment as Helper. However, the respondents reduced the scale of pay of the petitioner, while providing alternative employment. As per Section 47 of the



said Act, no establishment shall reduce the scale of pay of an employee, who suffers with some ailments, while providing alternative employment. Section 47 of the Disabilities Act reads as under:

Non-discrimination in Government employments.-

(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service: Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could 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.

(2) No promotion shall be denied to a person merely on the ground of his disability: Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

3. The learned counsel for the writ petitioner further submits that the petitioner has made representation to the respondents to re-fix his scale of pay and provide pensionary benefits to him. However, the same was not considered by the respondents. Hence, the petitioner has filed this writ petition.

4. Mr.K.Jagadeesh Balan, learned counsel who takes notice for the respondent, submits that the representation of the petitioner is under consideration.

5. This Court paid its anxious consideration to the rival submissions made by the learned counsel. Admittedly, the petitioner was provided with alternative employment. However, while providing alternative employment as a Helper, the respondents have reduced the scale of pay. In Section 47 of the Disabilities Act as cited supra, it is clearly stated that the Establishment shall not reduce the scale of pay of the employee, who suffers with ailments, while providing alternate employment. Hence, this Court directs the respondents to consider the representation of the petitioner dated 15.11.2021 and take a decision in accordance with law within a period of six weeks from the date of receipt of a copy of this order.



6. Accordingly, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam,
Thanjavur District.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Pudukottai,
Pudukottai District.

+1 CC to M/s.K.JAGADEES BALAN, Advocate (SR-288[F] dated 05/01/2022)

W.P. [MD] .No.21833 of 2021
04.01.2022

RD(24.01.2022) 3P 4C