



W.P.Nos.32640 of 2019 & 2465 of 2020
and W.M.P.Nos.2862 & 2863 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.Nos.32640 of 2019 & 2465 of 2020
and W.M.P.Nos.2862 & 2863 of 2020

W.P.No.32640 of 2019 :

N.Govindasamy

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region, Periyamilaguparai,
Trichy.

2.The General Manager,
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region, Periyamilaguparai,
Trichy.

3.The Branch Manager,
Tamilnadu State Transport Corporation Ltd.,
Jayankondam Branch,
Ariyalur District.

... Respondents



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W.P.No.2465 of 2020 :

The Managing Director,
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd.,
Represented by its General Manager,
Trichy Region, Trichy.

... Petitioner

Vs.

1.N.Govindasamy

2.The Special Deputy Commissioner of Labour,
DMS Campus, Anna Salai, Chennai - 6.

... Respondent

Prayer in W.P.No.32640 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to provide alternative employment to the petitioner by creating a supernumerary post in the third respondent office.

Prayer in W.P.No.2465 of 2020 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders dated 11.07.2018 passed by the second respondent in A.P.No.397/2012 and quash the same.

In W.P.No.32640 of 2019

For Petitioner : Mr.G.Pugazhenth

For Respondents : Mr.M.Murali Vinodh



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In W.P.No.2165 of 2020

For Petitioner : Mr.M.Murali Vinodh
For R1 : Mr.G.Pugazhenth
For R2 : Ms.C.Meera Arumugam

COMMON ORDER

W.P.No.32640/2019 is filed by N.Govindasamy / Workman praying to direct the respondents to provide a suitable and alternative employment to him with continuity of service, backwages and all other attendant benefits and W.P.No.2465/2020 is filed by the Management against the orders dated 11.07.2018 in A.P.No.397/2012 passed by the Special Deputy Commissioner of Labour, Chennai.

2. For the sake of convenience, the parties are referred to as per their names.

3. N.Govindasamy was working with the Tamilnadu State Transport Corporation (Kumbakonam) Limited as a Conductor. On



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17.07.2008, he met with an accident and sustained severe head injuries.

The Tamilnadu State Transport Corporation (Kumbakonam) Limited issued a Show Cause Notice to him under Section 24(6)(a) of the Certified Standing Orders. Since the workman did not give his explanation and did not also report for duty, a domestic enquiry was conducted. The Enquiry Officer after examining the delinquent as well as the Management held that the charges against the workman were proved. Thereafter, a second show cause notice was issued to the workman and he was dismissed from service with effect from 11.06.2012. Subsequently, the Management filed an Approval Petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 before the Special Deputy Commissioner of Labour, Chennai in A.P.No.397/2012. The Special Deputy Commissioner of Labour, Chennai vide her orders dated 11.07.2018 dismissed the Approval Petition on the ground that the domestic enquiry was not conducted in accordance with law and that there is a violation of principles of natural justice.



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4. Aggrieved over the above said orders, the Management filed W.P.No.2465/2020 and the workman filed W.P.No.32640/2019 praying for a direction to the Management to provide him suitable and alternative employment since he is unable to discharge his duty as a Conductor. His main contention was that he met with an accident on 17.01.2007 near Thiruppattur and was admitted in Apollo Speciality Hospital, Madurai. According to him, he was hospitalised as an in-patient till 29.03.2007 and subsequently, was admitted in Government General Hospital, Pondicherry for about one month. In this regard, he filed medical certificates issued by various Doctors on different dates. In fact, all these medical certificates were produced before the domestic enquiry and it seems that the Enquiry Officer did not consider these medical reports.

5. Mr.M.Murali Vinodh, learned counsel for the Management would contend that the workman did not appear before the Medical Board and that the Special Deputy Commissioner of Labour, Chennai did not consider the evidence adduced on the side of the Management



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6. Per contra, Mr.G.Pugazhenth, learned counsel for the N.Govindasamy / Workman would contend that the Approval Petition was rightly dismissed by the Special Deputy Commissioner of Labour, Chennai. He drew the attention of this Court to the Discharge Summary issued by the Apollo Speciality Hospital, Madurai in which it is stated that N.Govindasamy sustained the following injuries :

- i. Tentorial subarachnoid haemorrhage
- ii. Left temporoparietal subdural haematoma,
- iii. Occipital contusions with cerebral edema and
- iv. Fracture left 2nd and 3rd ribs.

His specific contention is that since N.Govindasamy can no more discharge his duty as a Conductor on account of the injuries he must be provided an alternate job. He would further contend that the representation dated 06.03.2019 given by the workman in this regard has not also been considered by the Management.



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7. It is pertinent to point out that though the workman had submitted medical certificates periodically, the same have not been considered by the Enquiry Officer and on the other hand, the Enquiry Officer held that the workman had unauthorisedly absented himself. This observation is totally wrong and the Special Deputy Commissioner of Labour had gone into this aspect in detail while dealing with the petition filed by N.Govindasamy under Section 2A(2) of the Industrial Disputes Act. All the observations made by the Special Deputy Commissioner of Labour cannot be said to be perverse and therefore, I do not see any reason to interfere with the same.

8. As regards, the writ petition filed by the workman seeking a direction to the Management to give him an alternate job, the Management is directed to consider the request of N.Govindasamy / workman in accordance with law. The workman is directed to appear before the General Manager, Tamilnadu State Transport Corporation (Kumbakonam) Limited, Trichy Region within a period of two weeks



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from the date of receipt of a copy of this order and on such appearance the General Manager shall consider the request made by the workman in accordance with law and on merits.

9. In the result,

- i. W.P.No.2465/2020 filed by the Management is dismissed. No costs.
- ii. W.P.No.32640/2019 filed by the Workman is disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

11.12.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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R. HEMALATHA, J.

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