



W.P.(MD) No.4059 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.4059 of 2020

N.AlbertRajaretnam

... Petitioner

-VS-

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli) LTd.,
Kattapomman Nagar
Tirunelveli 627 011
Tirunelveli District.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Tirunelveli) Ltd.,
Nagercoil Region,
Ranithottam
Nagercoil 629 001
Kanyakumari District.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent pertaining to its order in Kurippu No. 1807//aae2/Tha.A.Po.Ka(Thili)/Nagar/2019-1 dated 04.04.2019 and to quash the same and consequently direct the respondents to grant salary for the period from 20.04.2017 to 05.10.2017 as per Section 47 of the Person with Disabilities (Equal Opportunities, Protection of Rights and Full



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participation) Act, 1995 forthwith.

For Petitioner : Mr.M.Dennis Joe
For Respondents : Mr.R.Rajmohan

O R D E R

The petitioner challenges the impugned order of the 2nd respondent dated 04.04.2019 and for a direction to the respondents to grant salary for the period from 20.04.2017 to 05.10.2017.

2. The case of the petitioner in nutshell is as follows:

The petitioner was worked as Conductor in the respondent Corporation from 1997. Since the petitioner suffered with multiple disability, he made a representation to the respondents on 17.09.2016 for providing him alternative employment. Since the same was neither considered nor the petitioner was referred to the Medical Board, he filed W.P.(MD) No.1457/2017 for referring him to medical board. This Court directed the 2nd respondent to send him to medical board. Pursuant to which, he was referred to the medical board and a certificate was issued to the effect that he is not fit to continue as a Conductor. Accordingly, he was accorded with the alternative employment on 05.10.2017 and he joined duty on 06.10.2017. On attaining the age of superannuation, the



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petitioner retired on 31.08.2019. While he was in service, due to the non consideration of the representation with regard to alternative employment, the petitioner was not sanctioned the salary from 20.04.2017 to 05.10.2017. Therefore, the petitioner again filed W.P.No. 1931/2019 to sanction the salary for the said period, which was disposed of by this Court by directing the respondents to consider the representation of the petitioner. However, on consideration of the representation, the present impugned order has been passed thereby rejecting the request of the petitioner for salary on the ground of not attending the duty.

3. The learned counsel for the petitioner would submit that for the non-employment period, the petitioner made a representation and though the petitioner is not entitled for salary for the non-employment period, the petitioner is entitled for continuity of service for the purpose of pension. Hence, this Court may issue a direction to count the petitioner's services for the purpose of pension.



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4. The learned counsel for the respondents would submit that the petitioner is entitled for continuity of service. However, he is not entitled for salary for the non employment period.

5. Considering the facts and circumstances of the case, this Court is inclined to direct the respondents to count the service of the petitioner from 20.04.2017 to 05.10.2017 for the purpose of calculating pension. However, for the non employment period on the concept of 'no work no pay', the petitioner is not entitled for salary. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. No costs.

09.01.2023

NCC : Yes/No

Index : Yes/No

RR



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M.DHANDAPANI, J.

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