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W.P.(MD)No.9564 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.9564 of 2019
and
W.M.P.(MD)No.7523 of 2019

P.Palaniappan

... Petitioner

vs.

1.The Managing Director,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
New Railway Station Road,
Kumbakonam, Thanjavur District.

2.The General Manager,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
Administrative Section,
Pudukkottai Zone, Pudukkottai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made in TNSTC/Kumba/Puma/Sathu/S.M/87 passed by the 1st respondent, dated 17.04.2015 and to quash the same and consequently, to direct the respondents to confirm the service of the petitioner with effect from 01.04.2012 instead of 01.09.2014 with all attendant benefits within the time stipulated by this Court.

For Petitioner : Mr.P.R.Prithiviraj

For Respondents : Mr.D.Sivaraman

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order dated 17.04.2015 passed by the 1st respondent and consequently, to direct the respondents to confirm the service of the petitioner with effect from 01.04.2012 instead of 01.09.2014 with all attendant benefits within the time stipulated by this Court.



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2. The petitioner was appointed as Reserve Driver on daily wages basis with a salary of Rs.179/- per day, vide order, dated 31.08.2009. Since the petitioner has completed 180 days, the petitioner was appointed on 09.06.2011 again on daily wages basis with certain conditions and the petitioner was brought under Contributory Pension Scheme. On 12.11.2011, when the petitioner was driving the bus, the right back side tyre of the bus burst and resulted in an accident, thereby, a woman who was sitting inside the bus was injured on her right leg. For this accident, a show cause notice, dated 17.04.2013 was issued and the petitioner submitted an explanation on 06.05.2013. After enquiry, the petitioner was imposed with a punishment of postponement of increment for six months with cumulative effect, vide order, dated 09.12.2013. The petitioner preferred a revision and the same punishment was confirmed. For the said accident, a criminal case was initiated in Crime No.221 of 2011 on 13.11.2011 for the offences under Sections 279, 338 of IPC and



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the same was taken cognizance in C.C. No.1 of 2013 on the file of the Special Judicial Magistrate Court, Thirumayam. In the said case, the petitioner was acquitted.

3. When the facts being so, the 2nd respondent vide communication, dated 20.04.2012 confirmed the service of the employees who were appointed on the same date. The petitioner was appointed on the same day and the respondents did not consider the petitioner's case and declined confirmation. Thereafter, the respondent vide proceedings, dated 07.10.2014 passed an order confirming the petitioner's service only from 01.09.2014 instead of 01.04.2012. Aggrieved over the same, the petitioner submitted a detailed representation, dated 05.12.2014 but the respondents did not consider the same. Hence, the petitioner filed W.P.(MD)No.2175 of 2015 and this Court vide order dated 18.02.2015 directed the 1st respondent to consider and pass orders within a period of twelve weeks. After considering the



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was not regularized on 01.04.2012. Further, the respondent corporation received a letter from the Police informing that the petitioner was acquitted on 15.03.2014 in CC.No.1 of 2013. Therefore, based on the letter, the petitioner's service was regularized on 01.09.2014. Since the petitioner was acquitted in the year 2014, the petitioner's case was considered and he was regularized. Therefore, there is no illegality in granting regularization in the year 2014. Hence, the 2nd respondent prayed to dismiss the writ petition.

5.Heard Mr.P.R.Prithiviraj, learned Counsel appearing for the petitioner and Mr.D.Sivaraman, learned Standing Counsel appearing for the respondents and perused the records.

6. After hearing the rival submissions this Court has given its anxious consideration. Whenever the service of any candidate ought to be regularized, the respondent corporation would seek clearance



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certificate from the Police personnel. In the present case, when the petitioner was about to be regularized, he had committed accident and was facing criminal proceedings. After acquittal, the respondents have considered the petitioner's case and granted confirmation. However, in the present case the petitioner has not committed any accident due to rash and negligent driving, but the accident had occurred due to tyre burst. Since the respondents did not maintain the bus and the tyre properly the accident had occurred, therefore the present accident cannot be cited to decline regularization from 2012 onwards. Therefore, this Court is of the considered opinion that the petitioner is entitled to confirmation from 01.04.2012 and the respondents are directed to grant confirmation from 01.04.2012 along with consequential benefits. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above said observation, the writ petition is



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allowed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No
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S.SRIMATHY, J

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