



W.P.(MD)No.3643 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 3643 of 2016

and

W.M.P(MD)No. 3260 of 2016

Thanga Marimuthu

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Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Madurai Division,
18, Bye Pass Road,
Madurai – 10.

2. The General Manager,
Tamil Nadu State Transport Corporation Limited,
Bye Pass Road,
Madurai – 10.

3. The Assistant Manager,
Tamil Nadu State Transport Corporation Limited,
Madurai Division - I,
Madurai District.

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Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to



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the impugned order passed by the 2nd respondent in his proceedings in Ref: Madurai/Law/W.P.No.15587/2013 dated 09.04.2014 and quash the same as illegal and consequentially to direct the respondents to treat the military training period as a duty period in the light of letter of Commanding Officer, 110 Infantry Battalion, Pradeshik Sena, Redfields, Coimbatore in Letter No.212/A, dated 03.03.1993.

For Petitioner : Mr.A.Nawazkhan, for
M/s.Ajmal Associates

For Respondents : Mr.J.Senthil Kumaraiah,
Standing Counsel

ORDER

This writ petition is filed challenging the impugned order, dated 09.04.2014 with consequential direction to the respondents to treat the military training period as a duty period, in the light of letter of the Commanding Officer, 110 Infantry Battalion, Pradeshik Sena, Redfields, Coimbatore in Letter No.212/A dated 03.03.1993.

2. Mr.A.Nawazkhan, for M/s.Ajmal Associates, learned counsel appearing for the petitioner and Mr.J.Senthil Kumaraiah, learned Standing



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counsel appearing for the Respondents. Perused the material documents available on record.

3. The contention of the petitioner is that, he is working as Non-ITI Helper in the respondent Corporation. He was differently abled to the tune of 80%. Initially, he was appointed as part time soldier at 110 infantry Battalion Pradeshik Sena, Redfields, Coimbatore on 31.06.1990. The petitioner service would be utilized during the war period or on any emergency period. Most of the time they will be free, except two months training period conducted by the Infantry Battalion. Hence, the petitioner has joined as a Conductor on 22.11.1992, under the 3rd respondent office. At the time of appointment, he was absolutely fit and healthy. While, he was in service, he was deputed to Territorial Army from 01.12.1992 to 31.01.1993. Subsequently, on 22.11.1993, he rejoined in the duty without any break. From 22.11.1993, the petitioner's service was regularized. But the respondents have deliberately not included the said training period as duty period. Since the same was not considered, the petitioner has preferred a writ petition in W.P(MD)No.15587 of 2013 and this Court, vide order, dated 08.02.2014, disposed of the writ petition, by directing to consider the



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representation, dated 02.09.2013. Thereafter, the respondents have passed the impugned order, stating that the petitioner without informing to the respondents has taken leave and left from the service, therefore the said period was not included. The respondents have filed counter and has reiterated the same.

4. The contention of the respondents was refuted by the petitioner stating that the petitioner had already informed by showing the telegraphic information to the respondents. When the respondents denied to include the said period of service, the petitioner has sought the military authorities to confirm his training in the military to the respondent corporation. The Military authorities had sent a telegram message to the corporation authorities confirming that the petitioner had underwent training. The telegram message dated 14.10.1993 of the Commanding Officer of the said Battalion is extracted hereunder:

*“UNIT RECEIVED ORDERS FOR EMBODIMENT UNDER
RULE 33 OF TA ACT 1948 FOR MILITARY SERVICE AAA
10166582 SEP THANGAMARIMUTHU CONDUCTOR ST NO CR
08603 OF YOUR CORPORATION EMBODIED FROM OCTOBER
EIGHTEENTH AAA REQUEST RELIEVE AND DIRECT
INDIVIDUAL. THIS UNIT IN TIME.”*



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The copy of the telegram message states that it was informed to the Managing Director, Pandiyan Roadways Corporation, that the petitioner is directed to attend the training session. The petitioner has also submitted the same before the respondents and sought permission and has attended the same. In spite of receiving the telegram message from the Commanding Officer, the respondents have taken as stand the same was not intimated which cannot be accepted. Since the respondents have declined the same, the petitioner has made request to the Commanding Officer that the said period has been treated as loss of pay and again circulated a letter recommending to regulate the said period. Based on the request of the petitioner, again the Commanding Officer sent a telegram on 14.03.1993 informing the petitioner has attended training period, therefore the Commanding Officer has recommended to the Managing Director to treat as regular period. The said recommendation letter is extracted hereunder:

“Sir,

1.No 10166585 Sep Thangamarimuthu, a part time soldier of this unit (employed as conductor in your corporation) has been embodied for 2 months Annual training with effect from 01 Dec 92 to 31 Jan 03. He has now been reported to this unit that the training period is treated as



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leave on loss of pay by your corporation. This is contrary to the existing orders issued by this Govt of Tamilnadu, public (military) Department vide their GO No 2398 dt 24 Sept 1951 (copy enclosed).

2.You are requested to treat the period of military training as on duty”.

5. Even if it is taken for argument sake that the petitioner has not informed the respondents, subsequently it has come to the knowledge of the respondents that the petitioner had attended the military training, then the respondent ought to have appreciated the petitioner for his attitude to service the nation.

6. In view of the foregoing reasons, this Court is of the considered opinion that the petitioner has taken leave to train himself in the Military force. Moreover, the petitioner is an Army soldier and in case of any emergency his service would be utilized. Hence, the impugned order is liable to be quashed.



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7. Accordingly, the impugned order, dated 09.04.2014 is hereby quashed. The respondents are directed to treat the training period as duty period and disburse all the benefits including monetary and service benefits, within a period of 8 weeks from the date of receipt of a copy of the order. With the above observations, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

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

ksa

**Order made in
W.P.(MD)No. 3643 of 2016**

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