



W.P.No.20140 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.20140 of 2012

and

M.P.No.1 of 2012

K.Ravichandran

...Petitioner

-Vs-

- 1.The State of Tamil Nadu,
rep. by Secretary to the Government,
Transport Department,
Fort St. George,
Chennai – 600 009.
- 2.The Metropolitan Transport Corporation (Chennai) Ltd.,
rep. by its Managing Director,
Pallavan Salai,
Chennai – 600 002.
- 3.The Tamilnadu Government Transport Corporation (Villupuram) Ltd.,
rep. by its Managing Director,
Villupuram.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus to call for the records pertaining to the orders in Letter No.7294/PaPi(Po)1/MaPoKa/2008 dated 05.03.2011 on the file of the 2nd respondent, quash the same and to direct the respondents 2 and 3 herein to



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consider his case for appointment to the post of Conductor, in pursuant to the call letters dated 27.12.2010 and 13.04.2007, respectively and to pass such further orders.

For Petitioner	:	Mr.C.Prabakaran
For R1	:	Mr.M.Rajendiran Additional Government Pleader
For R2	:	Mr.C.Gowthama Raj Senior Counsel
For R3	:	Mr.M.Aswin Senior Counsel

ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 05.03.2011, passed by the 2nd respondent in Letter No.7294/PaPi(Po)1/MaPoKa/2008, and consequently, direct respondents 2 and 3 herein to consider his case for appointment to the post of Conductor, in pursuant to the call letters dated 27.12.2010 and 13.04.2007, respectively.

2. The case of the petitioner is that he studied up to 10th Standard and obtained Conductor license. He also registered with the employment exchange on 17.12.1999, and he is a physically challenged person with a



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difference in the length of his legs due to polio attack because of which he is walking slightly tilted on one side, apart from this, he is a normal person and fit to perform the job of the Conductor. The petitioner was called for an interview for the post of Conductor in the year 2001-2002, and he has also registered with the employment exchange and was given temporary employment by the 3rd respondent on daily wage basis and served as a Conductor in the 3rd respondent Corporation for 7 years.

3. Learned counsel for the petitioner would submit that due to the petitioner's employment exchange seniority, he was called for an interview for the post of Conductor by the 3rd respondent on 13.04.2007 and by the 2nd respondent on 19.02.2008. The petitioner appeared before the 2nd respondent and 3rd respondent on the respective dates, attended the interview, and produced his certificates for scrutiny. However, no communication was sent regarding his selection or his non-selection, and he waited for several months, and no communication was received from respondents 2 and 3. It is further submitted that the petitioner gave a representation to the State Commissioner for the Disabled to respondents 2 and 3. In pursuance of the said representation, the 2nd respondent passed an order dated 24.11.2008,



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stating that as if they had obtained exemption, they had exempted the appointment of disabled persons to the post of Conductor from the Government and hence his representation for appointment cannot be considered.

4. Learned counsel would further submit that the petitioner filed W.P.No.23857 of 2009, challenging the above order passed by the 2nd respondent dated 24.11.2008 and this Court by order dated 13.09.2010, directed the 2nd respondent to consider the case of the petitioner for the post of Conductor depending upon the nature and extent of disability. As per the said order the petitioner was permitted to place all the certificates, including the certificate of earlier service, in the post of Conductor for 7 years. It has further directed that respondents 2 and 3 to refer the petitioner to the Medical Board to assess the suitability of the petitioner for the post of Conductor if necessary and to pass appropriate orders within four weeks.

6. Pursuant to the above said order of this Court, the 2nd respondent called the petitioner to produce certificates by letter dated 27.12.2010, and as per the said letter the petitioner appeared in person and produced all the



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documents including documents for 7 years of service rendered as Conductor on 07.01.2011 and on the same day, the 2nd respondent cited the doctor's advice that the petitioner cannot be considered for the job of Conductor and informed that detailed order would be sent in this regard. Thereafter on 05.03.2011, the 2nd respondent rejected the candidature of the petitioner on the ground that he was not fit for Conductor job and that he did not produce any certificates to prove his 7 years of work at Tamilnadu Government Transport Corporation (Villupuram) Ltd., the 3rd respondent herein. Aggrieved by the impugned order passed by the 2nd respondent in Letter No.7294/PaPi(Po)1/MaPoKa/2008 dated 05.03.2011, the petitioner has come forward with the present writ petition.

7. A counter affidavit was filed on behalf of respondents 1 to 3 on 10.03.2015.

8. In the counter affidavit, it is stated that in view of the order passed by this Court in W.P.No.23857 of 2009, the matter was remitted back to the Managing Director of the Metropolitan Transport Corporation (Chennai) Limited, and the petitioner was permitted to place all the



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certificates, including the disability certificate, that the petitioner has 55% disability, and the same is also mentioned in the impugned order passed by the 2nd respondent dated 05.03.2011.

9. Learned Standing Counsel for the 3rd respondent would submit that, in pursuance of the above order, which reassessed the physical condition of the petitioner and also verified that the petitioner was not continuously employed for more than 240 days to have an advantage of any compensation for the services rendered by him in the Corporation, the respondent was constrained to pass the impugned order.

10. Learned Standing Counsel further submitted that any service rendered by any incumbent without the above sanction or a recruitment process will not vest any right to seek a remedy for reappointment or a preferential treatment to be granted in an occasion of any further employment. The petitioner was neither appointed for any sanctioned post nor employed for a period of more than 240 days, which guarantees him payment of compensation under the Industrial Laws. The petitioner does not possess any legal right to seek an appointment for the post of Conductor in



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the respondent Corporation.

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11. Heard both sides and perused the materials available on record.

12. In the case on hand, it is admitted fact that the petitioner is a physically challenged person, and his first engagement was in the year 2001 at that time his age was 22 years as on date he is 46 years. On perusal of the records it is clear and evident that the petitioner has worked on different occasions temporarily as Conductor with the 3rd respondent/Tamilnadu Government Transport Corporation (Villupuram) Ltd. The petitioner has worked temporarily as Conductor from the year 2001 to 2007 on different periods. After that, he was engaged by the 3rd respondent/Tamilnadu Government Transport Corporation (Villupuram) Ltd. for a period of 08.01.2018 to 19.01.2018 at Kalpakkam Depot, and he was also temporary engagement as Conductor for the period from 11.01.2024 to 16.01.2024 by the 3rd respondent/Tamilnadu Government Transport Corporation (Villupuram) Ltd., and copies of the original receipts and remittance charges were also produced before this Court by way of an additional typed set of papers.



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13. In view of the above facts and circumstances of this case, the order passed by the 2nd respondent/Metropolitan Transport Corporation (Chennai) Ltd. in Letter No.7294/PaPi(Po)1/MaPoKa/2008 dated 05.03.2011, and the same is hereby quashed.

14. Taking into consideration the above facts of the case, the petitioner is directed to give a representation to the 3rd respondent/Tamil Nadu State Transport Corporation (Villupuram) Limited, for appointment to the post of Conductor as a fresh entry without claiming any seniority or backwages and the said representation has to be submitted within a period of two weeks from the date of receipt of a copy of the order and thereafter, the same shall be forwarded to the 2nd respondent/Metropolitan Transport Corporation (Chennai) Ltd. The 2nd respondent on receipt of the same shall consider it on merits in accordance with law and pass appropriate orders within a period of six weeks.

15. In the result, the writ petition is allowed with the above observations and directions. No costs. Consequently, connected



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miscellaneous petition is closed.

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cda

Index : Yes/No

Speaking / Non-Speaking Order

To

- 1.The Secretary to the Government,
The State of Tamil Nadu,
Transport Department,
Fort St. George,
Chennai – 600 009.
- 2.The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Salai,
Chennai – 600 002.
- 3.The Managing Director,
The Tamilnadu Government Transport Corporation (Villupuram) Ltd.,
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J.SATHYA NARAYANA PRASAD, J.

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