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W.P.No.35201 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :13.09.2024

C O R A M :

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.35201 of 2014

V.Rajaraman

... Petitioner

VS.

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore Division) Ltd.,
Chennimalai Road,
Erode -638 001.

2. The General Manager
Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
Coimbatore – 641 043

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, directing the respondents to regularize the period from 29.04.2011 to 01.02.2012 treating it as duty and service for being counted for pension and grant the allied / incidental service benefits and also to pay the monetary benefits to the petitioner for the above period invoking the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995.

For Petitioner : Ms.S.Girija



W.P.No.35201 of 2014

For Respondents : Mr.M.Murali Vinodh

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ORDER

This writ petition has been filed, seeking a writ of mandamus to direct the respondents to regularize the period from 29.04.2011 to 01.02.2012, treating it as duty and service to be counted for pension, and to grant the allied / incidental service benefits and also to pay the monetary benefits to the petitioner for the above period, invoking the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995.

2. When the matter was taken up for consideration on 30.08.2024, it was represented by the learned counsel for respondents that the relief sought for by the petitioner has already been considered except for back wages. However, the learned counsel for the petitioner disputed the same. Hence, this Court directed the second respondent to file a counter affidavit.



W.P.No.35201 of 2014

3. Today, the second respondent filed a counter affidavit on behalf of respondents stating as follows:

“10. I humbly submit that as per the Section 47 of the Act, his rank was not reduced to any extent. He was awarded with the same scale of pay and basic pay, as he was receiving earlier. Also, continuity of service is clearly said in the rejoining order itself. If the continuity of service is taken, then the period will automatically counted for pension and other service benefits. Only the backwages was not paid based on the universally accepted norm of "No Work No Pay.

11. I humbly submit that further, the writ petitioner is seeking for higher basic by showing the similarly placed colleague's salary slip. The basic pay may differ to the employee to employee due to the implementation of punishments. Therefore, the same cannot be considered as the petitioner sought for.

12. I humbly submit that this Hon'ble High Court has directed this respondent corporation to consider his claim as per section 47 of the Act alone. There is no specific direction to this respondent corporation to pay back wages. As clearly stated above, this respondent



corporation has issued rejoining order in terms of Section 47 of the Act, without any violation of the Act. If the writ petitioners, aggrieved over the said rejoining order, he should have preferred appeal against the said order of the General manager.

13. I humbly submit that without exhausting the said remedy and without accepting the factual matrix, the writ petitioner has filed the present writ petition seeking to regularize the 29.04.2011 to 01.02.2012 as per the Section 47 of the Act, which was already done. Therefore, there is no purpose of the writ petition seeking a direction to regularize, which was already done.”

4. The learned counsel for the petitioner prays that this writ petition may be closed by placing on record the contention of the respondents as set out in paragraph 10 to 13 in the counter affidavit.

5. In the light of the above, this Writ Petition is closed by placing on record the contention of the respondents as averred in paragraph 10 to 13 in the counter affidavit. However, there shall be no order as to costs.



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W.P.No.35201 of 2014

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To

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MUMMINENI SUDHEER
KUMAR,J.

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