



WEB COPY



W.P.No.29135 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.29135 of 2024

R.Thanigaivel

.. Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
3/137, Salamedu,
Valudhareddy Post,
Villupuram – 605 602.

2.The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangaluru National Highways,
Kancheepuram – 631 552.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to Letter No.2204/Nee.vi.pi/TNSTC/KPM/22 dated 12.09.2024 issued by the 2nd respondent and to quash the same and consequently direct the respondents to make payment of wages from 23.07.2018 to till date with 10% interest per annum or to direct the respondent to re-employ the petitioner in any job other than the post of driver as ordered by the Hon'ble Division Bench in W.A.No.2204 of 2022 dated 25.04.2023.



W.P.No.29135 of 2024

For Petitioner : Mr.N.Ishak
For Respondents : Mr.R.Venkatesa Perumal
Standing Counsel

ORDER

This Writ Petition was filed challenging the impugned letter dated 12.09.2024 issued by the 2nd respondent and for a consequential direction to the respondents to pay the wages from 23.07.2018 till date with interest or in alternative to direct the respondent to re-employ the petitioner in any post other than the post of driver as ordered by the Division Bench in W.A.No.2204 of 2022 dated 25.04.2023.

2.Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

3.When the writ petition was taken up for hearing on 01.10.2024, this Court passed the following order:

“Mr.Venkatesa Perumal, learned Standing Counsel, takes notice for respondents.

2. The main grievance expressed by learned counsel for petitioner is that the order passed by the Division Bench in W.A.No.2204 of 2022, dated 25.04.2023, has been violated and the directions have not been complied with.



W.P.No.29135 of 2024

WEB COPY

3. *To appreciate the above submission, paragraph No.10 of the order is extracted hereunder:*

"10. Recording the affidavit so filed by the first respondent, this court, in order to give quietus to the issue involved herein, directs the appellant to consider the claim of the first respondent and pass orders, either to pay wages or to provide him any job other than driver, on the basis of the affidavit dated 20.04.2023 filed by the first respondent as referred to above. Such an exercise shall be completed by the appellant after providing an opportunity of personal hearing to the first respondent, within a period of eight weeks from the date of receipt of a copy of this judgment."

4. *The impugned order dated 12.09.2024 passed by second respondent states as follows:*

"நீதிமன்ற உத்தரவின்படியும்,
தங்களது முந்தைய பணி
வரலாறின்படியும் 18.07.2024 அன்று
234ஆவது கழக நிர்வாக
இயக்குநர் குழு முடிவின்படி
தங்களுக்கு மீண்டும் ஓட்டுநர் பணி
வழங்க வழி வகையில்லை
என்பதால், தங்களுக்கு மீண்டும்
ஓட்டுநர் பணி வழங்காமல்
நீதிமன்ற உத்தரவுகளின்படி



W.P.No.29135 of 2024

தங்களுக்கு 23.07.2018 முதல்
29.07.2021 வரை சம்பளம் வழங்க
இதன்மூலம் உத்தரவிடப்படுகிறது.

இதன் பொருட்டு தங்களது
பணி அடையாள அட்டை, ஆதார்
அட்டை (Aadhar Card), பான்
அட்டை (Pan Card) ஆகியவற்றை
அசல் மற்றும் நகலுடன்
இவ்வலுவலகத்திற்கு ஏதாவதொரு
அலுவலக நாளில் வருமாறு
இதன்மூலம் கேட்டுக்
கொள்ளப்படுகிறது."

5. Learned counsel for petitioner submitted that even though the petitioner has submitted the relevant documents and had also undertaken to forgo the back wages, the above order was passed.

6. Learned Standing Counsel appearing on behalf of respondents shall take written instructions. Based on the same, final orders will be passed in this writ petition.

Post this writ petition at the end of the motion list on 23.10.2024."

4. When the matter was taken up for hearing today, the learned Standing Counsel for the respondent Corporation produced written instructions received from the 2nd respondent. The relevant portions are extracted hereunder:



WEB COPY



W.P.No.29135 of 2024

“As per the Hon'ble Court order, the petitioner was called for personal hearing at the regional office, Kancheepuram to ask him job option to provide him any job other than Driver job. But, he requested on the day by representation dated 23.08.2023 to this management requesting to provide Driver job and forgo the backwages.

Again he represented by petition dated 03.11.2023 insisting the management to provide Driver job.

In this regard, as per the Hon'ble Court direction once again he was called in person at the regional office and clearly enquired him about the status of job option to provide him whether any job other than Driver job, as such he given his written representation dated 11.12.2023 to the management with request to provide Driver job as he already requested vide his representation dated 23.08.2023.

It is submitted that the petitioner repeatedly represented to the respondent management to provide Driver job without in mind about the order of the Hon'ble Court in the Hon'ble Division Bench directed to consider to pay wage or any other job other than Driver job.

In compliance with the Hon'ble Court's directions, and petitioner's representations, and personal hearing, and considering the petitioner's past record, the corporation started the official procedure to comply the Hon'ble Court order, and placed the subject to get approval from State Transport Undertaking (STU) Board meeting (No.234) on 18.07.2024,



WEB COPY



W.P.No.29135 of 2024

where it was decided to pay the petitioner wages for the period from 23.07.2018 to 29.07.2021 instead of providing him Driver job as he represented finally.

The copies of his repeated representations as to provide Driver job are enclosed herewith for kind perusal.

As per the Hon'ble Court order, the Approval Petition rejection order was set aside on the date of Writ Petition final order, as such, it was confirmed by the Hon'ble Division Bench. Accordingly as per Writ Court order, the wages eligible only for the period from the date of Approval Petition rejection (23.07.2018) till W.P. final order (29.07.2021), and the same was confirmed by the Hon'ble Division Bench. The petitioner not represented or contested during the Writ Appeal case hearing about the principle of "Doctrine of merger" to make wages beyond the above said period and upto the date of order of the Hon'ble Division Bench that is 25.04.2023, and this management obey the Hon'ble Court orders and according to law not accept the wages payment beyond the above said period."

5.It is clear from the above that the Transport Corporation has now taken a very specific stand that they are not willing to provide any job to the petitioner and that they are willing to pay the wages as directed by this Court.



W.P.No.29135 of 2024

WEB COPY

6.The learned counsel for the petitioner submitted that the petitioner was not insisting for the driver job and was willing to take any job by giving up his claim for backwages.

7.Per contra, the learned Standing Counsel for the respondent Corporation by producing the relevant records submitted that the petitioner was continuously insisting for providing him the driver job. In view of the same, the Transport Corporation came to a conclusion that they will settle the wages of the petitioner as directed by this Court.

8.This Court does not want to get into the controversy as whether the petitioner is insisting for driver job or the petitioner was willing to take up any job by giving up his backwages. Ultimately, paragraph No.10 of the Division Bench order governs the case as on today.

9.In view of the above, the stand taken by the respondent Corporation is recorded and this Court holds that the petitioner will be entitled for payment of wages.



W.P.No.29135 of 2024

WEB COPY

10.The next controversy is with respect to the period for which the wages will have to be paid to the petitioner. The learned Standing Counsel appearing on behalf of the Transport Corporation submitted that the petitioner will be entitled for the payment of wages from the date on which the approval petition was rejected till the date of passing of the order in W.P.No.13444 of 2021 dated 29.07.2021. Per contra, the learned counsel for the petitioner submitted that the order in the writ petition has now merged with the order passed in the writ appeal on 25.04.2023. Therefore, wages are payable from the date of rejection of the approval petition till the date of passing of the final order in the writ appeal.

11.In the considered view of this Court, if the Transport Corporation had not filed an appeal against the order passed by the learned Single Judge, the petitioner would have been entitled for wages from the date of rejection of the approval petition till the date of the disposal of the writ petition on 29.07.2021. Since, the Transport Corporation had chosen to file an appeal in W.A.No.2204 of 2022, the order passed in the writ petition merges with the order passed in the writ appeal and therefore, this Court holds that the petitioner will be entitled



W.P.No.29135 of 2024

for wages till 25.04.2023 when the writ appeal was disposed of.

WEB COPY

12.In the light of the above discussions, this Court holds that the petitioner will be entitled for the wages from the date of rejection of the approval petition till the date of disposal of the writ appeal in W.A.No.2204 of 2022 dated 25.04.2023. This amount shall be settled to the petitioner by the respondent Corporation within a period of eight (8) weeks from the date of receipt of a copy of this order. If the amount is not settled within the time frame fixed by this Court, it will carry an interest of 6% from the date of rejection of the approval petition till the date of actual settlement of the amount.

13.In the result, this Writ Petition is disposed of with the above directions. No costs.

23.10.2024

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,



WEB COPY



W.P.No.29135 of 2024

3/137, Salamedu, Valudhareddy Post,
Villupuram – 605 602.

N.ANAND VENKATESH, J.

krk

2.The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangaluru National Highways,
Kancheepuram – 631 552.

W.P.No.29135 of 2024