



W.P(MD)No.7678 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.7678 of 2024

B.Manikandan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bye-Pass Road,
Madurai District.

2.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Dindigul-624 004.

3.The Branch Manager,
Tamil Nadu State Transport Corporation Ltd.,
Kumily Branch,
Theni District.

4.The Branch Manager,
Tamil Nadu State Transport Corporation Ltd.,
Palani Branch,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation, dated 29.12.2023 to treat the 345 days



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from 07.09.2022 to 17.08.2023 as his duty days and pay its salary along with increments, all leave salaries and consequential promotion to him within a time frame that may be stipulated by this Court.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.K.Ramaiah
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the 1st respondent to consider the petitioner's representation, dated 29.12.2023 to treat the 345 days from 07.09.2022 to 17.08.2023 as his duty days and pay its salary along with increments, all leave salaries and consequential promotion to him within a time frame that may be stipulated by this Court.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner joined as a Driver under the respondent Corporation in Dindigul region in the year 2015 and he was made permanent in the year 2018. While riding a two wheeler, he met with an accident in September 2021 and



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sustained serious injuries in his backbone, as a result of which, he is not able to perform duty as Driver thereafter. He requested the respondents to provide him with an alternative duty. Following which, he was assigned with a duty of a Security in Cumbum II branch from October 2021 for 2 months. Thereafter, he was transferred to Kumily branch and he has been serving as Security from January 2022 onwards in the said branch. Though he has been assigned with a duty with Security, in his salary bills, his designation was continued as Driver. While working in Kumily branch, the petitioner took leave on 08.08.2022 and 09.08.2022 with the permission of the 3rd respondent. However, on 01.09.2022, the petitioner came to understand that the said two dates were marked as absent and salary for 2 days has been deducted from salary. When the petitioner approached the 3rd respondent in this regard, he was directed to approach the 2nd respondent. The 2nd respondent directed the petitioner to undergo eye check up. As per the directions of the 2nd respondent, the petitioner underwent eye check up on 16.09.2022, 29.10.2022 and 27.11.2022 again and again and submitted the reports to the respondents and requested them to permit the petitioner to continue his job as Security. However, thereafter, he was not assigned with Security duty from 07.09.2022. In this regard, the petitioner made several complaints including Chief Minister's Special Cell and to the Human Rights



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Commission. Following which, the petitioner was directed to undergo eye check up in the Special Medical Board, Chennai and he also appeared before the said Medical Board and underwent all eye check up as required from 02.02.2023 to 15.02.2023. The Medical Board had also submitted its report immediately to the respondents, wherein it has been clearly mentioned that the petitioner is unfit for the job of Driver. Despite the same, the petitioner was not provided with alternative job. Hence, he filed W.P(MD)No.10236 of 2023 and this Court by its order, dated 27.04.2023 directed the respondents to consider the petitioner's plight and pass appropriate orders. Even then, he was not provided with alternative duty and hence, he filed Cont.P(MD)No.1696 of 2023. To wreck vengeance, the respondents had deputed the petitioner in Palani branch for one week, wherein the petitioner is continuing till now.

4. The petitioner has to travel 300 kms daily to Palani for about 10 hours to do his 8 hours duty. That apart, the petitioner was also not provided with any duty from 07.09.2022 to 17.08.2023. Hence, the petitioner made a representation on 29.12.2023 requesting to forthwith pay him with salary for 345 days on which work was denied to him. Since the same was not considered, this writ petition came to be filed.



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5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

6. In view of the above, this Court hereby direct the 1st respondent to consider the representation of the petitioner, dated 29.12.2023 to treat the 345 days as duty period and pay salary with all increments and other benefits including promotion and pass appropriate orders in accordance with law within a period of four (4) weeks from the date of receipt of copy of this order.

7. With the above said observations, this Writ Petition stands disposed of. No costs.

27.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes



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L.VICTORIA GOWRI, J.

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