



CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.(MD) No.333 of 2024

N.Subramanian

....Appellant/Writ Petitioner

-VS-

1.The General Manager,
Tamil Nadu Government Transport Corporation(TVL)Limited,
Tirunelveli Region,
Tirunelveli,
Tirunelveli District.

2.The Branch Manager,
Tamil Nadu Government Transport Corporation(Tvl) Limited,
Cheranmahdevi Branch,
Tirunelveli District. ... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters patent praying this Court to set aside the order of passed by this Court made in W.P(MD) No.19899 of 2022, dated 10.10.2023.

For Appellant : Mr.V.Kannan



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JUDGMENT

DR.G.JAYACHANDRAN,J.
AND
C.KUMARAPPAN,J.

This Writ appeal is filed seeking to set aside the order of passed by the learned Single Judge of this Court in W.P(MD) No.19899 of 2022, dated 10.10.2023.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Writ Petitioner, has got employment suppressing his inability in the Transport Corporation as Conductor. After getting appointment order, he had contended that he is not fit for the job of Conductor. Soon thereafter, made a request to give an alternative appoinment citing his physical inability. The respondents/Management considered his request and posted him as Security Guard.Thereafter, he has been terminated from service on 06.10.2023. He submitted a representation for providing alternative post, as he has been given the post of Security Guard. While so, he has filed W.P.No.19899 of 2022



seeking issuance of a Writ of Certiorarified Mandamus challenging the impugned proceedings of the first respondent, dated 21.7.2020 and 20.06.2022, since he was again called upon for performing the duty of Conductor. Pending Writ Petition, he had been terminated from service by proceedings, dated 6.10.2023, in view of the charge memo, dated 24.07.2018. When the transfer order is in vogue, the Writ Petition was taken up for consideration and the learned Single Judge has disposed of the Writ Petition with the following observation:

'1.In view of the above said facts, the request of the Writ Petitioner for an alternative employment cannot be considered by this Court at this stage. The Petitioner is at liberty to challenge the order, dated 6.10.2023, in case, if succeeds his request of alternative employment can be revived.'

4. Being aggrieved by the order of the learned Single Judge, the present Writ Appeal is filed.

5. The learned counsel for the appellant states that the termination order is yet to be approved as per Section 33(2)(b) of



the Industrial Disputes Act and therefore, he has not challenged the same, till it is approved by the authority concerned. This Court finds that the learned Single Judge has rightly pointed out that the Writ Petition is premature and the Writ Petitioner has to wait till the outcome of the termination order. If the termination order is set aside, then only the request of the Petitioner for providing an alternative employment will arise.

6.Hence the Writ Appeal stands dismissed, confirming the observation made by the learned Single Judge, with cost of Rs.5000/- (Rupees five thousand only) payable by the appellant to the Legal Services Committee attached to this Bench. No costs.

[G.J.,J.] [C.K.,J.]

11.03.2024

NCS : Yes/No
Index : Yes / No
Internet : Yes / No

vsn



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To:

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Tirunelveli District.
- 2.The Branch Manager,
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Tirunelveli District.



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DR.G.JAYACHANDRAN,J.
AND
C.KUMARAPPAN,J.

vsn

JUDGMENT MADE IN
W.A.(MD)No.333 OF 2024

11.03.2024