



WP.Nos.213 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.213 of 2019

A.Ramamoorthy
S/o Appavu,
Railway Feeder Road,
Vallampadugai & Post.
Chidambaram Taluk,
Cuddalore District 608401.

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Petitioner

Vs.

1. Tamilnadu State Transport
Corporation (Villupuram) Ltd.,
rep. by its Managing Director,3/137,
Salamedu, Villupuram.

2. The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Villupuram Region,
3/137, Salmedu, Villupuram.

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Respondents

Prayer :Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORARIFIED MANDAMUS after calling for the records pertaining to the order dated 20.10.1998 in Ka.Ku. No.7695/Nil.7/TNSTC (VPM.DVN.1/1998 and the order dated 09.04.1999 in Memo No.7695/E/TNSTC (VPM.DVN.1)/99, quash the order dated 20.10.1998 and quash the order dated



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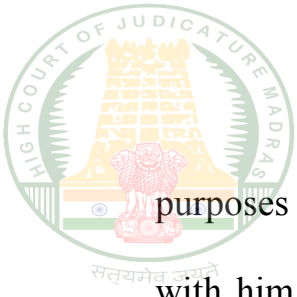
9.4.99 in so far as appointing the petitioner as a fresh entrant Helper and not giving him continuity of service, pay protection and other service benefits and consequently direct the respondents to treat the period from 20.10.1998 to 15.4.1999 as duty for all the purposes and to fix his pay on par with his colleagues, who joined with him as driver, by giving the petitioner annual increments, review benefits, service weightage, provident fund contributions etc., for the said period and also for the period from 15.04.99 to till date with difference in wages and all other consequential benefits.

For Petitioner : Ms. Nandhini H
for M/S.R.Krishnaswamy.

For Respondents : Mr.M.Aswin

ORDER

This writ petition is filed seeking to call for the records pertaining to the order dated 20.10.1998 in Ka.Ku.No.7695/Nil.7/TNSTC(VPM.DVN.1)/1998 and the order dated 09.04.1999 in Memo No.7695/E/TNSTC(VPM.DVN.1)/99, insofar as it appoints the petitioner as a fresh entrant Helper and denies him continuity of service, pay protection, and other service benefits and to direct the respondents to treat the period from 20.10.1998 to 15.04.1999 as duty for all



purposes and to fix the petitioner's pay on par with his colleagues who joined with him as driver by granting him annual increments, review benefits, service weightage, provident fund contributions, etc., for the said period, as well as for the period from 15.04.1999 to till date, along with the difference in wages and all other consequential benefits.

2. Heard Ms.H.Nandhini, learned counsel for the petitioner and Mr.M.Aswin, learned counsel for respondents and perused the materials available on record.

3. The petitioner joined as a driver on 20.08.1990 in the 3rd respondent State Transport Corporation. He was made permanent in the year 1991. During the period from 1994 to 1998, the petitioner was suffering from severe back pain, taken treatment in various hospitals and he had also undergone a surgery. During the year 2010, his wife also died.

3.1. In view of his physical condition, he appeared before the medical board and a report was submitted on 08.07.1998 by the board stating that he was unfit for the post of driver. On 01.09.1998, the 2nd respondent issued a show cause to the petitioners as to why he should not be discharged from service on



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medical grounds. The petitioner requested to accommodate him in an alternate employment, but his request was not considered and he was discharged on medical grounds with effect from 20.10.1998. However, as per the Government Order issued in G.O.746 dated 2.7.1981, the petitioner was given with an alternate employment, but as a fresh entrant helper on and from 15.04.1999. The petitioner, coming to know about the fact that he was entitled to get an alternate employment, without any medical discharge, with continuity of service, with pay protection and other continuity of service benefits, made a representation to the respondents. As his request was not considered, he has filed this writ petition.

4. The petitioner, who was discharged from service as early as in the year 1998, was given with alternate employment in the year 1999. However, he did not prefer to challenge his discharge until now. It is only after 20 years that the petitioner has filed this writ petition by challenging his order of discharge and his order of re-engagement given in the year 15.12.1999.

5. The learned counsel for the petitioner submitted that Section 47 (1) of the Persons with Disabilities Act gives benefit to the employees who acquires disability that occurred during service. As the Act got its overriding effect, it is submitted that the petitioner is entitled to the benefits provided under the said



provision. It is also the submission of the learned counsel for the petitioner that the petitioner ought not to have been discharged on medical grounds.

6. The learned counsel for the respondent submitted that before the Persons with Disabilities Act, 1995 came into force, appointments were made pursuant to G.O. Ms. 746, dated 02.07.1981. However, after the enactment of the Act, alternative employment was provided in accordance with its provisions. At the time when the petitioner was discharged, the Persons with Disabilities Act, 1995 was very much in force. For reasons best known to the respondents, the provisions of the Act were not invoked. Neither the petitioner has approached the Court immediately after his discharge on 20.10.1998 to challenge the order. In fact, he quietly accepted his re-engagement on 15.04.1999 and continued in service for 20 years. The petitioner also attained the age of superannuation on 30.06.2022.

7. There is delay and laches on the part of the petitioner for which no acceptable reason is stated. Further, the petitioner's case ought to have been considered only in the light of the Persons with Disabilities Act, 1995, which was in force at the relevant time.

8. In view of the above, this Writ Petition is **disposed of**. The impugned



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order dated 20.10.1998 in Ka.Ku. No.7695/Nil.7/TNSTC (VPM.DVN.1/1998 and the order dated 09.04.1999 in Memo No.7695/E/TNSTC (VPM.DVN.1)/99 are set aside in so far as appointing the petitioner as a fresh entrant Helper and not giving him continuity of service, pay protection and other service benefits and the respondents are hereby directed to reconsider the petitioner's case and pass appropriate orders on merits in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

18.02.2025

Index : Yes
Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs

To

1. The Managing Director,
Tamilnadu State Transport
Corporation (Villupuram) Ltd.,
3/137, Salamedu,
Villupuram.
2. The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Villupuram Region,
3/137, Salmedu,
Villupuram.

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R.N.MANJULA, J.

jrs

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