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W.P.No.37486 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2025

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.37486 of 2015

T.Tamil Mani

...Petitioner

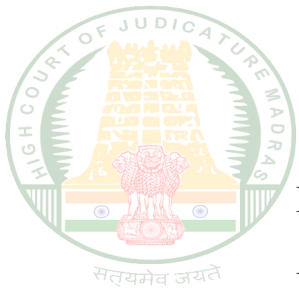
Versus

1.The Managing Director,
Tamil Nadu State Transport Corporation,
No.37, Mettupalayam Road,
Coimbatore.

2.The General Manager,
Tamil Nadu State Transport Corporation,
No.37, Mettupalayam Road,
Coimbatore – 641 047.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent relating to Ref.1/L2/WP/10530/TNSTC/2011 dated 04.07.2011 to quash the same and consequently, direct the respondents to grant the arrears of salaries and other benefits accrued thereby and treating the service rendered by the petitioner from the date of appointment to the date of superannuation as continuous service while calculating the pension to be paid to the petitioner from the date of superannuation and the future pension to be paid to the petitioner.



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For Petitioner : Ms.R.Pushpalatha
for Mr.C.Deivasigamani
For Respondents : Mr.A.Sundaravadhanam

ORDER

The relief sought in this Writ Petition is to quash the Order dated 04.07.2011 bearing Ref.1/L2/WP/10530/TNSTC/2011 (hereinafter referred to as “Impugned Order”) passed by the 1st Respondent and to direct the Respondents to grant the arrears of salaries and other benefits accrued thereby and treating the service rendered by the Petitioner from the date of appointment till the date of superannuation as continuous service while calculating the pension to be paid to the Petitioner from the date of superannuation and the future pension to be paid to the Petitioner.

2. The brief facts of the case are that the Petitioner was employed as a Bus Conductor in the Respondent Corporation on 05.12.1975. On 09.03.1988, the Petitioner met with an accident during the course of employment. At the time of accident, the Petitioner who was standing inside the bus to issue tickets to the travelling public lost his balance and was thrown down within the bus. In the said accident, the Petitioner had sustained injuries in his spinal cord and hence, he was taking medical



treatment as an inpatient in Ellan Nursing Home, Coimbatore from 15.04.1988 till 20.06.1988.

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3. After treatment, the Petitioner vide Letter dated 23.06.1988, requested the Respondent Corporation to give him light duty. As requested by the Petitioner, he was given light duty by the Respondent Corporation from 29.06.1988 till 15.07.1988. However, the Petitioner was directed to perform duty as Bus Conductor from 16.07.1988 onwards, but, the Petitioner was having difficulties in performing the duty as Bus Conductor.

4. Under these circumstances, it was diagnosed by the Doctors that due to the injuries sustained by the Petitioner in his spinal cord, some of his spinal veins were displaced. Hence, the Petitioner was taking medical treatment as an inpatient in the Sheela Nursing Home from 26.11.1991 to 14.12.1991.

5. While so, the Respondent Corporation issued a Show Cause Notice dated 14.07.1992 to the Petitioner, calling upon the Petitioner to show cause as to why he should not be discharged from duty under medical grounds.



Thereafter, the Respondent Corporation directed the Petitioner to appear before the Medical Board. Hence, the Petitioner also appeared before the Medical Board. After the Petitioner was examined by a team of Doctors, the Medical Board had given a opinion that the Petitioner is not fit to work as Bus Conductor.

6. However, the Respondent Corporation compelled the Petitioner to perform duty as Bus Conductor on 13.08.1992 and thus, the Petitioner performed the duty on 13.08.1992. Thereafter, the Respondent Corporation vide Order dated 14.08.1992, discharged the Petitioner from the duty of Bus Conductor on medical grounds.

7. Subsequently, the Petitioner was re-employed as Junior Clerk by the 2nd Respondent vide Order dated 17.06.1993. However, the Petitioner was denied salary for the period between 14.08.1992 (the date on which the Petitioner was discharged from the duty of Bus Conductor) and 17.06.1993 (the date on which the Petitioner was re-employed as Junior Clerk in the Respondent Corporation).



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8. Therefore, the Petitioner made a Representation dated 29.12.2009 to the 1st Respondent, requesting to pay him the arrears of his salaries, but, there was no response for the same. However, the Petitioner made another Representation dated 24.05.2010 to the 1st Respondent, seeking compensation for the medical expenses incurred by the Petitioner due to the accident, arrears of salaries and some other consequential reliefs.

9. That apart, the Petitioner made two more Representations dated 29.12.2009 and 24.05.2010 before the 1st Respondent, but, there was no response for the same. Hence, the Petitioner filed a Writ Petition in W.P.No.10530 of 2001 before this Court praying for issuance of a Writ of Mandamus directing the 1st Respondent to consider and dispose of the Petitioner's Representations dated 29.12.2009 and 24.05.2010.

10. This Court vide Order dated 26.04.2011, disposed of the W.P.No.10530 of 2001 with a direction to the 1st Respondent to consider the Petitioner's Representations dated 29.12.2009 and 24.05.2010 and pass orders on the same on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of that order.



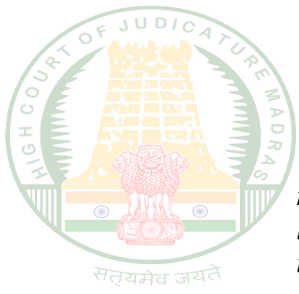
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11. Pursuant to the aforesaid Order of this Court, the 1st Respondent vide Order dated 04.07.2011, rejected the Petitioner's Representations dated 29.12.2009 and 24.05.2010. Aggrieved by the same, the Petitioner has filed this Writ Petition for the relief stated *supra*.

12. The learned counsel for the Petitioner submitted that the Petitioner is entitled to have protection in terms of the decision rendered by the Hon'ble Supreme Court in **Bhagwan Dass and Anr. Vs. Punjab State Electricity Board** (2008) 1 SCC 579. The learned counsel has placed reliance in Paragraph Nos.16 to 18 of the said decision, wherein, the Hon'ble Supreme Court had held as follows:

"16. The disabled employee then approached the Punjab and Haryana High Court in Civil Writ Petition No. 12534 of 2004 seeking relief in terms of Section 47 of the Act and the circulars issued by the State Government and the Board in its furtherance. In the writ petition he was joined by his son, Appellant 2, and an alternative relief was sought for employment of his son in his place. Unfortunately, before the High Court it was the second relief that came into focus and the High Court dismissed the writ petition by a brief order referring to the decision of this Court in Umesh Kumar Nagpal v. State of Haryana [(1994) 4 SCC 138 : 1994 SCC (L&S) 930 : (1994) 27 ATC 537 : (1994) 3 SCT 174] . In the High Court order there is no mention of Section 47 of the Act and the disabled employees' claim/right on that basis. Against that order this appeal is preferred in which the disabled employee agitates his rights on the basis of Section 47 of the Act.

17. From the materials brought before the court by none other than the respondent Board it is manifest that notwithstanding the clear and definite legislative mandate some officers of the Board took the view that it was not right to continue a blind, useless man on the Board's rolls and to pay him monthly salary in return of no service. They accordingly persuaded each other that the appellant had himself asked for retirement from service and, therefore, he was not entitled to the protection of the Act. The only material on the basis of which the officers of the Board took the stand that the appellant had himself made a



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request for retirement on medical grounds was his letter dated 17-7-1996. The letter was written when a charge-sheet was issued to him and in the letter he was trying to explain his absence from duty. In this letter he requested to be retired but at the same time asked that his wife should be given a suitable job in his place. In our view it is impossible to read that letter as a voluntary offer for retirement.

18. Appellant I was a Class IV employee, a lineman. He completely lost his vision. He was not aware of any protection that the law afforded him and apparently believed that the blindness would cause him to lose his job, the source of livelihood of his family. The enormous mental pressure under which he would have been at that time is not difficult to imagine. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights. Instead of doing that they threw him out of service by picking up a sentence from his letter, completely out of context. The action of the officers concerned of the Board, to our mind, was deprecable."

13. On the other hand, the learned counsel for the Respondents submitted that in the Appointment Order dated 17.06.1993 passed by the 2nd Respondent, it has been clearly stated that the Petitioner is not eligible to claim any benefits for the past services rendered by him as Conductor in the Respondent Corporation from 06.12.1975 to 13.08.1992. Further, in the said Appointment Order, it has also been stated that the Petitioner is not entitled for any pay and allowances for the period from 14.08.1992 to till he joins duty as fresh entrant as Junior Clerk in the Respondent Corporation.

14. I have heard the arguments of the learned counsel on either side and I have also perused the materials available on record.

15. In the present case, the Petitioner was working as a Bus Conductor in the Respondent Corporation. During the course of



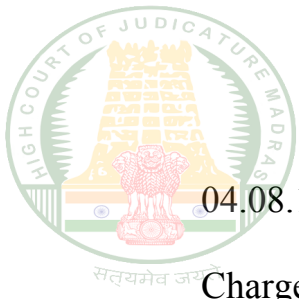
employment, the Petitioner met with an accident on 09.03.1988 and sustained injuries in his spinal cord.

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16. The accident was occurred in the year 1988. At that point of time, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 had not been enacted. In fact, the said Act came into force only on 07.02.1996. Thus, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 will not have a retrospective effect.

17. In **Bhagwan Dass and Anr. Vs. Punjab State Electricity Board** (2008) 1 SCC 579, the Hon'ble Supreme Court dealt with a case of an employee of the Punjab Electricity Board who suffered from visual impairment on 17.01.1994 and became completely blind.

17.1. The issue involved in **Bhagwan Dass's case** is that the Appellant/Employee remained absent from duty without any sanctioned leave from 18.01.1994 to 21.03.1997, for which, the Appellant/Employee was initially directed to resume for duty vide Memos dated 16.03.1994 and



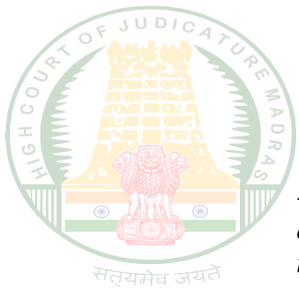
04.08.1994, but, the Appellant/Employee did not resume for duty. Hence, a Charge Sheet was issued to the Appellant/Employee.

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17.2. In this background, the matter remained dormant till the Appellant/Employee vide his Letter dated 17.07.1996 explained his blindness and requested for his retirement with a further request that his wife may be provided a suitable job, but, later, when the Appellant/Employee came to know that he was entitled to protection under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the Appellant/Employee wanted to withdraw his request for retirement. However, the Respondent Electricity Board had rejected the Appellant/Employee's request for withdrawal. Hence, the Hon'ble Supreme Court had held as under:

“19. We understand that the officers concerned were acting in what they believed to be the best interests of the Board. Still under the old mindset it would appear to them just not right that the Board should spend good money on someone who was no longer of any use. But they were quite wrong, seen from any angle. From the narrow point of view the officers were duty-bound to follow the law and it was not open to them to allow their bias to defeat the lawful rights of the disabled employee. From the larger point of view the officers failed to realise that the disabled too are equal citizens of the country and have as much share in its resources as any other citizen. The denial of their rights would not only be unjust and unfair to them and their families but would create larger and graver problems for the society at large. What the law permits to them is no charity or largesse but their right as equal citizens of the country.

20. In light of the discussions made above, the action of the Board in terminating the service of the disabled employee (Appellant 1) with effect from 21-3-1997 must be held to be bad and illegal. In view of the provisions of Section



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47 of the Act, the appellant must be deemed to be in service and he would be entitled to all service benefits including annual increments and promotions, etc. till the date of his retirement. The amount of terminal benefits paid to him should be adjusted against the amount of his salary from 22-3-1997 till date. If any balance remains, that should be adjusted in easy monthly instalments from his future salary. The appellant shall continue in service till his date of superannuation according to the service records. He should be reinstated and all due payments, after adjustments as directed, should be made to him within six weeks from the date of presentation of a copy of the judgment before the Secretary of the Board."

18. In this case, the Petitioner was discharged from the duty of Bus Conductor on 14.08.1992. Thereafter, the 2nd Respondent vide Order dated 17.06.1993, re-employed the Petitioner as Junior Clerk Petitioner, but, in the Appointment Order issued by the 2nd Respondent, it has been stated that the Petitioner is not eligible to claim any benefits for the past services rendered by him as Conductor in the Respondent Corporation from 06.12.1975 to 13.08.1992.

19. However, the fact remains that the Petitioner had served as Bus Conductor in the Respondent Corporation since 05.12.1975. Therefore, the benefit of continuity of service cannot be denied to the Petitioner.

20. Even as per the Tamil Nadu Pension Rules, 1978, past service of a Government Servant/Employee is ought to be included. The Respondent Corporation more or less adopted the Tamil Nadu Pension Rules, 1978.



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Therefore, there is no justification in the Impugned Order passed by the 1st

Respondent.

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21. In view of the above facts and circumstances of the case, this Court is inclined to quash the Impugned Order and allow this Writ Petition.

22. Accordingly, the Impugned Order dated 04.07.2011 passed by the 1st Respondent is quashed and this Writ Petition is allowed with a direction to the Respondents to disburse the pension benefits and all other terminal benefits to the Petitioner, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that the Respondents shall include the past service rendered by the Petitioner as Bus Conductor in the Respondent Corporation while calculating the Petitioner's pension benefits and other terminal benefits. No costs.

13.03.2025

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Managing Director,
Tamil Nadu State Transport Corporation,

11/13



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No.37, Mettupalayam Road,
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2. The General Manager,
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C.SARAVANAN, J.

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