

(2000) 08 MAD CK 0033

In the Madras High Court

Case No : Writ Petition No. 13520 of 2000 and W.M.P. No. 19573 of 2000

Gopal M.

APPELLANT

Vs

Management of State Express Transport Corporation Ltd.

RESPONDENT

Date of Decision : 09-08-2000

Acts Referred:

Citation : (2001) 1 LLJ 808 : (2000) WritLR 817

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : K. Chandru, for D. Hariparanthaman, for the Appellant; R.P. Kabilan, for the Respondent

Judgement

P.D. Dinakaran, J.—Mr. R.P. Kabilan, takes notice on behalf of the Respondent.

2. By proceedings dated December 18, 1999, the petitioner was dismissed from service on the ground that he is not medically fit to hold the post

of Driver in the respondent Corporation. Even though the petitioner seeks to quash the said order of dismissal dated December 18, 1999, Mr. K.

Chandru, learned senior counsel appearing on behalf of the petitioner restricts the prayer to the extent that the petitioner seeks only an alternative

employment in the light of the G.O. Ms. No. 86 dated February 8, 1996 wherein the Government has directed that if any Driver is declared unfit

for continuance in the same post by doctors because of eye defect or any other ailment, he will be provided with alternative employment in posts

like Helpers or office Assistants depending upon their qualification by retaining the same pay scale.

2. It is also brought to my notice that the Supreme Court in Narendra Kumar Chandla Vs. State of Haryana and others, has held as follows:

Article 21 protects the right to livelihood as an intergral facet of right to life. When an employee is afflicted with unfortunate disease due to which, when he is unable to perform the duties of the posts he was holding, the employer must make every endeavour to adjust him in a post in which the employee would be suitable to discharge the duties. Asking the appellant to discharge the duties as a Carrier Attendant is unjust. Since he is a matriculate, he is eligible for the post of LDC. For LDC, apart from matriculation, passing in typing test either in Hindi or English at the speed of 15/30 words per minute is necessary. For a Clerk typing generally is not a must. In view of the facts and circumstances of this case, we direct the respondent Board to relax his passing of typing test and to appoint him as LDC. Admittedly, on the date when he had unfortunate operation, he was drawing the salary in the pay scale of Rs. MOO-2300. Necessarily, therefore, his last drawn pay has to be protected. Since he has been rehabilitated in the post of LDC we direct the respondent to appoint him to the post of LDC protecting his scale of pay of Rs. 1400-2300 and direct to pay all the arrears of salary.

3. Following the said decision of the Apex Court in a similar circumstance, this Court by order dated December 16, 1999 made in W.P. No. 5922 of 1997 directed the respondent Corporation to consider the representation of the Petitioner for suitable post.

4. Considering the facts and circumstances of the case and in the light of the decision of the Apex Court in Narendra Kumar Chandla's case as well as the decision of this Court dated December 16, 1999 made in W.P. No. 5922 of 1997, it is suffice to direct the respondent Corporation to consider the representation of the petitioner dated December 31, 1999 and pass appropriate orders in the light of the G.O.Ms. No. 186 dated February 8, 1996 within eight weeks from the date of receipt of a copy of this order.

5. This writ petition is disposed of accordingly. No costs. Consequently, WMP. No. 19573 of 2000 is closed.