

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6485 OF 2015

Sahebrao Baliram Ambhore .. Petitioner.
Vs.
The Chairman and Manager
Bombay Electric Supply &
Transport Undertaking & Ors. .. Respondents.

Mr. J. P. Kharge for the petitioner.
Mr. V.B. Thadani AGP for the Respondent-State.
Mr. A.V. Bukhari, Senior Advocate with Hetal Master i/b Ashwin
Ankhad & Associates for the Respondent.

**CORAM : MOHIT S. SHAH, C.J. &
A.K. MENON, J.**

DATED : 14 AUGUST 2015

PC. :

This petition is filed under Article 226 of the Constitution of India. The petitioner a person with disability, challenges the termination order dated 24 June 2015 issued by respondent no.2 i.e. Deputy Chief Manager (Transport), (General) of the Bombay Electricity Supply and Transport Undertaking, (BEST), Mumbai.

2. It appears that the petitioner's services have been terminated on the ground of disability of mental illness.

3. In response to a suggestion from the Court, the learned senior counsel for the BEST states that respondent nos.1 and 2 are ready to reinstate the petitioner on the post of 'Bus shunter' at the Deonar depot with continuity of past service but without back wages for the intervening period.

4. The learned senior counsel further states that the petitioner's performance will be observed for a period of six months and thereafter the petitioner's case will be placed before the Special Medical Board for review.

5. The learned counsel for the petitioner submits that the petitioner is ready to accept the above offer. The learned counsel for the petitioner also invites our attention to the certificate dated 2 August 2013 at Exhibit-A issued by Department of Psychiatry, Grant Medical College and Sir J.J. Group of Hospitals, Occupational Therapy Fitness Evaluation. The said certificate indicates by and large all positive remarks on various parameters of general behaviour, interpersonal behaviour and task behaviour. The comments in the evaluation certificate read as under :

“Patient c/o sadness of mood. He is not confident of driving. He is not willing to perform driver's duties. Patient must strictly continue medications as advised. Patient fit for light duty. Unfit for Bus Driver's job.”

(emphasis supplied)

6. The learned counsel for the petitioner further submits that the petitioner had taken a loan from the respondents and the petitioner is required to repay the loan in installments but the petitioner could not pay some of the installments in view of petitioner's personal difficulties and on account of termination of his service. In the peculiar facts and circumstances of the case we are of the view that in case the petitioner makes a request for granting some indulgence regarding the number of installments towards repayment of loan, the respondents will consider the same sympathetically. In case the petitioner finds any difficulty in discharging his duties in the new job it will be open to the petitioner to make a representation to the higher authorities who shall consider the same sympathetically.

7. In view of above consensus, we set aside the impugned order dated 24 June 2015. The respondent shall reinstate the petitioner in service and initially post him for the job of Bus shunter at Deonar depot. The petitioner's performance will be observed for six months and thereafter the petitioner's case will be placed before the Special Medical Board for review.

8. In case respondent nos.1 and 2 propose to take any decision adverse to the petitioner, the petitioner will be given an opportunity of being heard and to produce any medical and other evidence in support of his case. If any adverse decision is taken against the petitioner, the said decision shall not be implemented for one month from the date of communication of order to the petitioner.

9. It is made clear that the suggestion made by this Court to the respondents was made in peculiar facts of this case.

The Court would like to place on record its appreciation for the positive and co-operative approach of the respondent-authorities and also of the learned senior counsel for the respondents as well as the petitioner and his learned counsel.

10. The petition is disposed of in terms of the above orders.

(CHIEF JUSTICE)

(A.K.MENON, J.)