

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-4-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.10521 of 2015

and

M.P.Nos.1 and 2 of 2015

A.Panneerselvam

...Petitioner

vs

1. Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
rep. By its Managing Director
Head Office, Vazhuthareddy,
Villupuram
2. The General Manager
Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
Kancheepuram
3. The Dean
Chennai Medical Board
Rajiv Gandhi Government General Hospital
Chennai 600 003

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 and 2 to provide the petitioner forthwith suitable alternative employment/light duty in commensuration with the petitioner's present health condition with continuity of service, pay protection, back wages and all other attendant benefits with effect from 21.12.2011 award costs.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.Paramasivadoss for RR1 & 2

Mr.V.Subbiah
Special Government Pleader
for R3

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner would state that he joined the services of Pattukottai Azhagiri Transport Corporation Limited, having it's Headquarters at Vellore, as a Driver on 1.3.1986, and on formation of Dr.Puratchi Thalaivar M.G.R. Transport Corporation Ltd., he was absorbed in the said new Corporation with continuity of service and the said Corporation has been made as one of the regions of the first respondent-Corporation and is functioning under the control of the second respondent. According to the petitioner, he was promoted as a Senior Driver with higher scale of pay and on completion of 14 years, the second review was given and he was promoted as Selection Grade Driver with higher scale of pay.

3.The petitioner would further state that on 21.12.2011, while he was working at Koyambedu Depot-I, he suffered a paralytic attack/hemi-paralysis on the right side of his body and therefore, his entire right side of the body i.e., from head to toe, became numb and dysfunctional and he took treatment for the same and consequently, could not report for duty and he also applied for medical leave periodically, as he was under continuous treatment, and still he is not recovered. According to the petitioner, he made a request to the respondents 1 and 2 to permit him to join duty on 23.10.2012, and it was also forwarded along with medical certificate to the concerned authority and he was also assured during August, 2013, that he would be given a light duty in Amma Mineral Water Sales Depot/Bunk; but, however, he was not given any such work and on the other hand, he was issued with a Memo dated 30.9.2013, calling upon him to appear for an enquiry at Tambaram Depot, regarding his absence and he has also attended the enquiry and once again, made a request to provide him a light duty and he was given a light duty in the said Mineral Water Sales Depot for two months in January and February, 2014; however, from March, 2014, he was not given any such work.

4.According to the petitioner, he also submitted a representation dated 15.10.2014, praying for alternate employment in the light of the provisions of The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and it was also followed by a reminder dated 22.11.2014, and since no response is forthcoming, he is constrained to file this writ petition.

5.Mr.V.Ajoy Khose, learned Counsel appearing for the petitioner, would submit that the respondents 1 and 2 are under statutory obligation to provide alternate employment to the petitioner in the light of Section 47 of the said Act and in spite of drawing their attention by means of two representations dated

15.10.2014 and 22.11.2014, he has not been given any alternate employment and consequently, he and his family continue to suffer and hence, prays for appropriate orders.

6.Per contra, Mr.Paramasivadoss, learned Standing Counsel, who accepted notice for the respondents 1 and 2, would submit that the said respondents may be directed to consider and dispose of the representations submitted by the petitioner, within a stipulated time.

7.The Court also heard Mr.V.Subbiah, learned Special Government Pleader, who accepted notice for the third respondent.

8.This Court has carefully considered the rival submissions and also perused the materials available on record.

9.As rightly contended by the learned Counsel appearing for the petitioner, the petitioner has suffered disability during the course of his employment and consequently, he is entitled to statutory protection in terms of the aforesaid Act. In spite of his representations dated 15.10.2014 and 22.11.2014, he has not been provided with any alternate employment.

10.In the result, the writ petition is disposed of and the respondents 1 and 2 are directed to refer the petitioner to the third respondent for getting medical opinion within a period of three weeks from the date of receipt of a copy of this order and the third respondent, in turn, shall examine the petitioner and give medical opinion within a period of three weeks thereafter and on receipt of such report, the respondents 1 and 2 are directed to consider and dispose of the representations dated 15.10.2014 and 22.11.2014, submitted by the petitioner, on merits and in accordance with law, strictly in terms of the provisions of The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, within a period of four weeks thereafter and communicate the decision to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(J)

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Sub Assistant Registrar

nsv

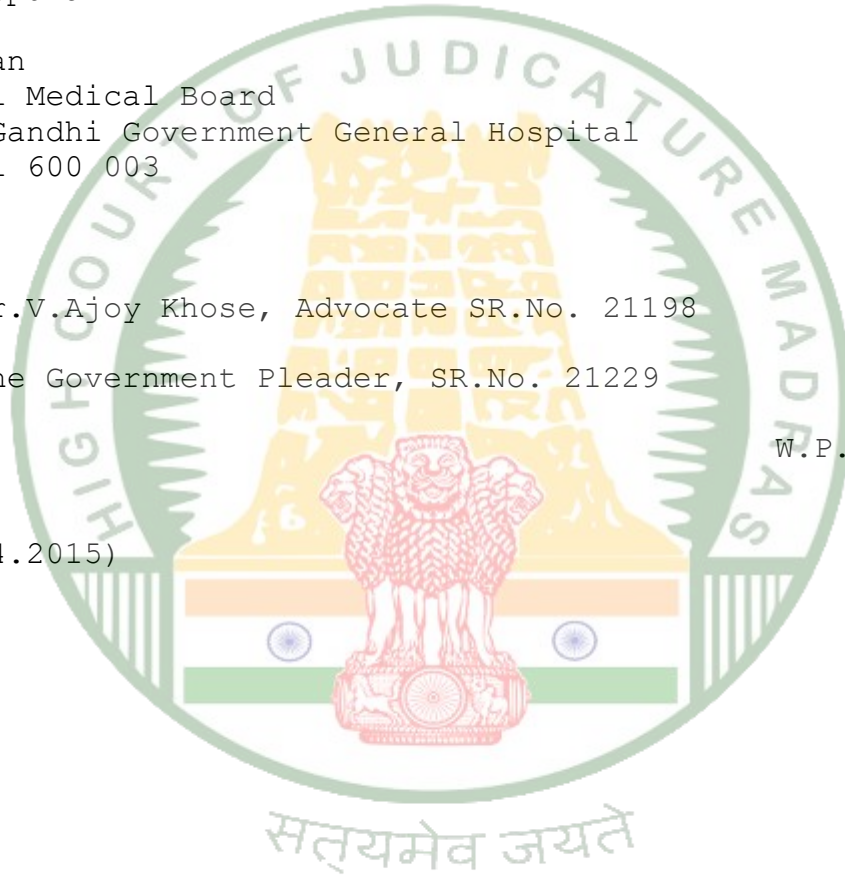
To

1. The Managing Director
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(Villupuram) Ltd.,
Head Office, Vazhuthareddy, Villupuram
2. The General Manager
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3. The Dean
Chennai Medical Board
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Chennai 600 003

- 1 CC to Mr.V.Ajoy Khose, Advocate SR.No. 21198
1 CC to the Government Pleader, SR.No. 21229

W.P.No.10521 of 2015

SV (CO)
PSI (28.04.2015)



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