

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.NO.12534 OF 2015

G.Jayaraman

...Petitioner

Versus

1. The Director General of Police
Chennai - 600 004.

2. The Commissioner of Police
Trichy, Pudukottai Road,
Thiruchirappalli - 620 023.

3. The Deputy Commissioner of Police
Law and Order, Trichy City
Pudukottai Road,
Thiruchirappalli - 620 023.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to consider and dispose of the petitioner's representation dated 18.09.2014.

For Petitioner : Mr.M.Raja Sekhar

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

Heard both sides. By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner was appointed as Grade - I Police Constable on 16.06.1993. Later, he was promoted as Head Constable. Unfortunately, he met with a road accident on 10.09.2008 and sustained severe head injury. His medical leave was extended due to his health condition and he was directed to report before the Regional Medical Board. Accordingly, the petitioner appeared before the Medical Board and the Medical Board recommended for extension of medical leave and the petitioner was also granted extension of medical leave. Thereafter, he appeared before the Medical Board consisting of three Members on 31.07.2009 at Annal Gandhi Memorial Hospital, Trichy and the Medical Board gave its opinion as under:

"Patient can perform desk job.

Patient cannot perform previous job at present."

3.However, the petitioner was not given any light duty. After the enactment of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, it is incumbent on the part of the Government establishment to provide alternate employment in view of the mandate of Section 47 of the said Act. But it is not given.

4.The petitioner again appeared before the Medical Board on 18.11.2013 and the Medical Board consisting of three Members, gave its opinion as under:

"This patient has neuro surgical problem following head injury - difficulty in walking, surgery - leg amputation was not done to this patient. He can do only desk job which is mentioned in the previous medical report."

5.Though the Medical Board gave categorical opinion that the petitioner could do only desk job, it is unfortunate that the respondents have not chosen to provide him desk job. It is relevant to point out that the petitioner made repeated representations in this regard seeking to provide him light work. The representation dated 17.11.2011 given by the petitioner's wife and the representation dated 18.09.2014 given by the petitioner are enclosed in the typed set of papers.

6.In these circumstances, it is also useful to refer to a judgment of the Honourable Supreme Court in KUNAL SINGH VS. UNION OF INDIA AND ANOTHER [2003 (4) SCC 524]. That case relates to a Police Constable in Special Service Bureau. The Supreme Court held that the

Government shall provide alternate employment, if an employee acquired disability, while in service, as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. In my view, this case squarely applies to the facts and circumstances of the case on hand.

7.Hence, a direction is issued to the first respondent to provide desk job by passing orders on the petitioner's representation dated 18.09.2014 based on the report of the Medical Board and also in the light of the judgment of the Supreme Court cited supra, within a period of four weeks from the date of receipt of a copy of this order and communicate the result to the petitioner.

8.The writ petition is disposed of in the above terms. No costs.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Director General of Police
Chennai - 600 004.
2. The Commissioner of Police
Trichy, Pudukottai Road,
Thiruchirappalli - 620 023.
3. The Deputy Commissioner of Police
Law and Order, Trichy City
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Thiruchirappalli - 620 023.

1 CC to Mr.M.Raja Sekhar, Advocate SR.No. 23985

1 CC to the Government Pleader, SR.No. 23122

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PUR (CO)
PSI (21.05.2015)