

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.16845 of 2015 and
M.P.No.1 of 2015

A.Shajahan

... Petitioner

vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road, Salem - 636 007.

2.The General Manager,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road,
Salem - 636 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of mandamus, directing the respondents to consider and provide the petitioner with permanent alternative employment in the cadre equal to the post of Conductor with pay protection continuity of service and all other attendant benefits with effect from 07.02.2015 - the date on which he was refused duty as per section 47 of the Persons with Disabilities (Equal Opportunities Protection and of Rights and Full Participation) Act 1995 - after ascertaining his physical disability to continue in the post of Conductor by referring him to the Medical Board.

For Petitioner : Mr.S.Girija

For Respondents : Mr.P.Paramasivadoss

O R D E R

Mr.P.Paramasivadoss, learned Standing Counsel takes notice for respondents 1 and 2.

2. The petitioner joined as a Conductor in the respondent Corporation. On 04.03.2014, while he was on duty in the bus bearing registration No.TN 30N 1293 running in Kadathur and Tiruppur route, the bus involved in an accident at Kuppanur, near SRS College by hitting on a tamarind tree and in the impact, the petitioner suffered multiple rib fracture, left hand fracture and right neck bone fracture.

3. According to the petitioner, he was admitted in a very critical condition in Salem Government Hospital and later shifted to Kovai Medical Centre and Hospital, Coimbatore on 04.03.2014. He was admitted on 05.03.2014 and discharged on 18.03.2014. In the mean time, he underwent major procedure, as per the discharge summary issued by Kovai Medical Center and Hospital Limited, which reads as follows:-

1. ORIF LEFT HUMERUS
2. LEFT RADIAL NERVE EXPLORATION
3. CR ANDK-WIRING LEFT 5TH FINGER PROXIMAL PHALANX
4. ORIF RIGHT CLAVICLE
5. LEFT RADIAL NERVE REPAIR - 10.03.2014.

4. Thereafter, the petitioner re-joined duty on 02.07.2014. According to him, he was given light duty work as Helper in Control Section for two months, point duty for two months and diesel work for one month at Erumapalayam Branch II. Thereafter, he was abruptly refused light duty from 07.02.2015. He was asked to perform the duty of Conductor, which he could not do, due to his disability.

5. While so, the petitioner was issued with a charge memo dated 18.04.2015 alleging that he unauthorisedly absented from duty. Hence, the petitioner has filed this writ petition, seeking for a direction to the respondents to provide him alternative employment with pay protection as per Section 47 of the Persons with Disabilities (Equal Opportunities Protection and of Rights and Full Participation) Act 1995.

6. Heard both sides.

7. The petitioner met with an accident while he was on duty. Therefore, the factum of accident is not in dispute. The discharge summary is enclosed in the typed set of papers. He underwent major procedure. Thereafter, according to the petitioner, he was given light duty.

8. In the facts and circumstances of the case, I am of the view that the respondents shall provide light duty till it is decided by the competent Medical Board as to whether the petitioner is fit to work as a Conductor.

9. The Dean, Government Mohan Kumaramangalam Medical, College and Hospital Salem, is directed to constitute a Medical Board.

10. The second respondent is hereby directed to refer the petitioner to the Medical Board, to be constituted by the Dean, Government Mohan Kumaramangalam Medical College and Hospital Salem. On reference being made, the Medical Board is directed to give a report as to whether the petitioner is fit to do the work of Conductor. If the Medical Board gives a report that the petitioner cannot discharge the work of Conductor, the respondent Corporation is directed to provide alternative employment to the petitioner,

protecting the pay of the Conductor as per section 47 of the Persons with Disabilities (Equal Opportunities Protection and of Rights and Full Participation) Act 1995. The respondents are directed to undertake the aforesaid exercise of getting a report from the Medical Board within a period of four months and in the mean time, the petitioner shall be provided light duty.

11. The writ petition is disposed of in the above terms. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Managing Director,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road, Salem - 636 007.
- 2.The General Manager,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road,
Salem -636 007.
- 3.The Dean,
Government Mohan Kumaramangalam Medical College
& Hospital, Salem.

1 cc to Mr.S.Girija , Advocate Sr.No.29405

1 cc to Mr. P.Paramasivadoss, Advocate Sr.No.29411

W.P.No.16845 of 2015

sar(co)
pmk.17.6.2015

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