



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD)No.19149 of 2016

and

W.M.P. (MD) Nos.13822 and 13823 of 2016

WEB COPY

S.Joseph Saleen Raj

.. Petitioner

Vs.

1.Tamil Nadu State Transport
Corporation (kumbakonam) Ltd.,
Represented by its Managing Director
Railway Station Road,
Kumbakonam, Thanjavur District.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Periyamilaguparai, Trichy.

3.The Dean,
Annal Gandhi Memorial Government Hospital,
Trichy. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a WRIT OF MANDAMUS directing the respondents to provide the Petitioner suitable alternative employment in the Trichy Region of Tamilnadu State Transport Corporation (Kumbakonam) Ltd Thanjavur with pay protection continuity of service and monthly salary from the month of February 2016 to till date including interest and back wages payable to the Petitioner as per Section 47(1) of Persons With Disabilities (Equal Opportunities protection of Rights and Full Participation) Act 1995.

For Petitioner : Mr.N.Sudhagar Nagaraj

<https://hcservices.courts.gov.in/> For Respondents : Mr.D.Sivaraman



O R D E R

This writ petition has been filed seeking direction to the respondent to provide suitable alternative employment to the petitioner in Trichy Region of Tamilnadu State Transport Corporation (Kumbakonam) Ltd., Thanjavur with pay protection, continuity of service and monthly salary from the month of February 2016 to till date, including interest and back wages payable to the Petitioner, as the petitioner is entitled to alternative employment in terms of Section 47(1) of Persons With Disabilities (Equal Opportunities protection of Rights and Full Participation) Act 1995.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The case of the petitioner is that he was appointed as Conductor in the second respondent Corporation on 31.01.2010. Now, he is bedridden due to neurological problem. Hence, he requested the respondents 1 and 2 to refer him to the Medical Board and provide him light duty. As the respondents did not refer him to the Medical Board, he sent several representations to the respondents 1 and 2 in this regard, but they did not take any action. In the meantime, on 28.01.2016, the respondents 1 and 2 issued enquiry notice to the petitioner, with regard to unauthorised absence. The grievance of the petitioner is that in spite of several representations, the respondents have not taken any steps to provide him alternative duty. Hence, he has filed this writ petition.

4. One Dr. N. Draisamy, M.D., (GEN), D.M., (Neuro consultant neurologist, SMS hospital, Tiruchirapalli, has examined the petitioner S. Joseph Saleen Raj and has issued a certificate stating that he is suffering from **Severe Anxiety Neurosis and Vascular Headache** and it further states that he is unfit to continue as a Conductor. Based on the medical certificate, the petitioner has sought for a direction to the respondents to provide alternative employment in Trichy Region of Tamilnadu State Transport Corporation (Kumbakonam) Ltd., Thanjavur with pay protection, continuity of service and monthly salary from February 2016 to till date.

5. The learned counsel for the respondents has produced the



communication dated 18.10.2016, under which, it is stated that the files pertaining to referring the petitioner for opinion of the Medical Board is under process.

6. Under such circumstances, the respondents are directed to refer the petitioner for medical board immediately on receipt of the copy of this order and the opinion of the medical board shall be obtained within a period of two weeks from the date of reference. Subject to the opinion offered by the medical board, the claim for alternative employment, shall be considered within a period of four weeks thereafter. The respondent shall also consider the request of the petitioner for continuity of service and monthly salary from the month of February 2016 as per the claim made in the representation.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

rj2

+1cc to Mr.N.Sudhagar Nagaraj Advocate Sr.No. 61434

+1cc to Mr.D.Sivaraman Advocate Sr.No. 61954

JAM/14.11.16/GSV-PM/ 3p-3c

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