



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.21560 of 2016

P.Yoheshwaran

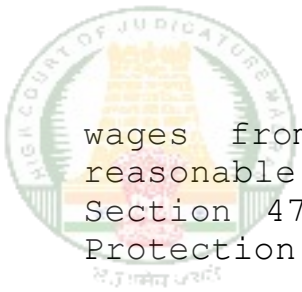
... Petitioner

vs.

1. Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., rep.by its Managing Director, Railway Station Road, Kumbakonam, Thanjavur District.
2. The General Manager, Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Karur Region, Karur.
3. The Assistant Manager (Personnel) Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Karur Region, Karur.
4. The Branch Manager, Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Karur Region, Musiri Branch, Musiri Taluk, Trichy District.
5. The Dean, Annal Gandhi Memorial Government Hospital, Trichy.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 & 2 to provide the petitioner's suitable alternative employment in the Karur Region of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Kumbakonam, Thanjavur District with pay protection, continuity of service and monthly salary with back



wages from the month of April, 2016 to till date including reasonable rate of interest payable to the Petitioner as per Section 47(1) of Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995.

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For Petitioner : Mr.N.Sudhagar Nagaraj
For RR - 1 to 4 : Mr.D.Sivaraman
For R - 5 : No appearance

ORDER

This Writ of Mandamus has been filed seeking for a direction to the respondents 1 and 2 to provide suitable alternative employment in Karur Region of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Kumbakonam, Thanjavur District with pay protection, continuity of service and monthly salary with back wages from the month of April 2016 to till date with interest in accordance with Section 47(1) of the Persons with Disabilities (Equal opportunities Protection of Rights and Full Participation) Act, 1995.

2.The petitioner is working in the respondent transport corporation with effect from 16.10.1991 and now he is working as a Selection Grade Conductor at Musiri Branch; he is suffering from giddiness, severe chest pain, vomiting and body tiredness for the last one year and in respect of the same he has taken treatment in Kauvery Private Hospital, Trichy. Thereafter, he is taking treatment continuously as an outpatient. Narrating the said facts and producing medical certificates, the petitioner requested the second respondent to provide him alternate duty. The petitioner has also submitted a representation dated 06.06.2016 to the respondents, to refer him to Medical Board to find out medical fitness. As there is no response from the respondents, this writ petition has been filed, seeking a direction to the respondents 1 and 2 to refer the petitioner to Medical Board.

3.The petitioner, in support of his claim, has enclosed the medical certificate dated 23.05.2016, issued by the Consultant Interventional Cardiologist, Kauvery Hospital, Trichy, which also shows that the petitioner suffered from chronic atypical muscular pain in interscapular region and in anterior chest wall, allegedly aggravated by his nature of job (conductor) and he is not able to stand for long duration.

4.The learned standing counsel appearing for the respondent would submit that as a matter of procedure, the respondent would refer the employee making request for alternative duty, to the Medical Board and on the opinion to be offered by the Medical Board, the claim of such person would be considered by the



corporation and the same procedure can be followed in the case of the petitioner. The learned counsel for the petitioner is agreeable to adopt such course.

5. Under such circumstances, this Writ Petition is disposed of directing the respondents 1 and 2 to send the petitioner to Medical Board within a period of one month from the date of receipt of a copy of this order and after getting opinion from the Medical Board, the petitioner's claim for alternative duty shall be considered sympathetically, at least for a limited period (as requested by the petitioner). No costs. Consequently, W.M.P(MD) Nos. 15415 and 15416 of 2016 are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr. N. SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 68105
+ 1 CC TO Mr. D. SIVARAMAN, ADVOCATE IN SR No. 68608

MJ

TE/MPA-EM/SAR-III : 03/01/2017 : 3P/3C

W.P(MD) No. 21560 of 2016
11.11.2016