



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.11.2016

C O R A M

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THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.21784 of 2016
and
W.M.P (MD) No.15567 of 2016

P.Veeramalai

.. Petitioner

Vs.

1.Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Represented by its Managing Director,
Kumbakonam.

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

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to take further action on the report of the Medical Board dated 27.06.2016 and pass orders in terms of Section 47(1) of persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995 for providing him alternative employment with pay protection continuity of service and all other attendant service benefits within a stipulated time.

For Petitioner ... Mr.A.Rahul

For Respondents ... Mr.D.Sivaraman

O R D E R

This is a writ of Mandamus seeking direction to the respondents 1 and 2 to take further action on the report of the Medical Board, dated 27.06.2016 and pass orders in terms of Section 47(1) of persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (hereinafter will be referred to as "the Act") for providing him alternative employment with pay protection, continuity of service and all other attendant service benefits within a stipulated time.

<https://hcservices.ecourts.gov.in/hcservices/>

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



3. The petitioner was appointed as Driver in the first respondent corporation with effect from 01.09.2005. On 19.11.2014, while the petitioner was returning from duty, sustained severe injuries on his right limb in a road traffic accident. Even after two surgeries, he is unable to walk. Hence, the petitioner gave a representation to the Management for referring him to the Medical Board. Accordingly, he was referred to medical board. The medical board after examining him, has submitted a report, dated 27.06.2016, stating that the petitioner is not fit for the driver job and also recommended for light duty finding disability as 65%. Despite the Medical Board report, no alternative employment has been given to the petitioner. Hence, the petitioner has filed this writ petition.

4. The main contention of the learned counsel for the petitioner is that the respondents 1 and 2 ought to have taken further action based on the Medical Board Report dated 27.06.2016 and should have passed further orders in terms of Section 47(1) of persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995.

5. The learned counsel for the respondents would fairly submit that the respondent would not stand on technicalities and would pass further orders within a period of eight weeks from the date of receipt of a copy of this order.

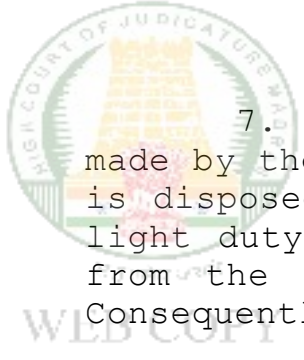
6. This is a case, where the petitioner has been awarded certificates of appreciation for having driven the vehicle without causing any accident. The said certificates have been awarded on 15.08.2007, 15.08.2009 and during 2008-09, 2010-11 and 2011-12.

6.1. A copy of the report of the Medical Board, dated 27.06.2016, would go to show that the petitioner has been recommended for lighter job and there is a specific finding that the petitioner is not fit for driving job and the disability has been assessed at 65%.

6.2. Even though the petitioner has been appreciated for driving without any accident, unfortunately, the petitioner himself has landed in an accident that is committed by somebody else and thereby has lost the right knee joint and this is disclosed in the application for extension of medical leave submitted by the petitioner.

6.3. The medical condition would reflect upon the survival of the family of the petitioner, as the petitioner is stated to be the sole breadwinner of the family.

<https://hcservices.ecourts.gov.in/hcservices> Under Section 47 (1) of the Act, the petitioner is entitled to be considered for alternative light duty employment.



7. In the light of the above and recording the submission made by the learned counsel for the respondents, the writ petition is disposed of, by directing the respondents to provide alternate light duty job to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar

+1cc to A.Rahul, Advocate SR.No.68970
+1cc to Mr.D.Sivaraman, Advocate SR.No.69592

rj2
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