

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.14281 of 2014
and
M.P.No.1 of 2014

V.Panneerselvam

... Petitioner

Vs

1.Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Rep.by its Managing Director,
3/137, Saalamedu, Vashudhareddy,
Villupuram - 605 602.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Cuddalore Region,
No.2, Imperial Road,
Cuddalore - 2.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to provide the petitioner forthwith suitable alternative employment on permanent basis with continuity of service, pay protection, backwages and other attendant benefits with effect from 01.03.2006 after adjusting the salary paid to the petitioner during the interregnum, award costs.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.P.Paramasivados

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to provide the petitioner forthwith suitable alternative employment on permanent basis with continuity of service, pay protection, backwages and other attendant benefits with effect from 01.03.2006.

2. The learned counsel appearing for the writ petitioner states that the petitioner joined as Driver in the first respondent Corporation on 16.3.1997 and his services were confirmed and he was brought under the time scale of pay with effect from 01.01.2000. The writ petitioner suffered a massive heart attack, while he was on duty on 05.09.2005 and he was admitted in the hospital as an inpatient and is now in continuous treatment. In this regard, the medical board has also issued a certificate stating that the writ petitioner is not fit to perform hard duties and he is advised to perform light duties.

3. The learned counsel appearing for the respondents made a submission that the respondents have to independently make an assessment by referring the case of the petitioner to the medical board. However, the right of the employer to ascertain the conditions in respect of the health condition cannot be denied. It is for the respondents to ascertain the facts in respect of the fitness of the writ petitioner in this regard and thereafter take a decision in accordance with law. The petitioner also submitted a representation to the respondents on 02.05.2014.

4. In this view of the matter the first respondent is directed to consider the representation submitted by the petitioner on 02.05.2014 and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner is directed to enclose a copy of the representation and documents if any along with the order passed in this writ petition. It is needless to state that the case of the writ petitioner is to be considered in the light of the provisions of the Rights of Persons with Disabilities Act, 2016 (49 of 2016).

5. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ms

To

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
3/137, Saalamedu, Vashudhareddy,
Villupuram - 605 602.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Cuddalore Region,
No.2, Imperial Road,
Cuddalore - 2.

+1cc to Mr.AJOY KHOSE, Advocate, S.R.No. 82625

W.P.No.14281 of 2014

SK(CO)
TR(13/12/2017)



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