



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2017

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CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.804 of 2017

I.Devaram Justin

... Petitioner

-vs-

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd., Kattapomman Nagar,
Tirunelveli-627 011.
Tirunelveli District.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd., Nagercoil Region,
Ranithottam, Nagercoil-629 001.
Kanyakumari District.
3. The Branch Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd., Ranithottam-I Branch,
Ranithottam, Nagercoil-629 001.
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the 1st and 2nd respondents to provide permanent alternate employment of light work to the petitioner as per the Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 in the 2nd respondent corporation within a stipulated time.

For Petitioner : Mr.M.Dennis Joe

For Respondents : Mr.K.Sathiya Singh

O R D E R

This writ petition has been filed, seeking to direct the 1st and 2nd respondents to provide permanent alternate employment of light work to the petitioner as per the Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 in the 2nd respondent corporation within a stipulated time.



2. The case of the petitioner is that he was appointed as a Driver in the respondent Corporation in the year 1988 and has now been working under the control of 3rd respondent; that he suffers from Spinal Cord problem, due to which, he is unable to drive the vehicle and the Doctor also advised him not to drive vehicle hereafter; that he sent a representation dated 04.08.2016 to the 1st and 2nd respondent, requesting to provide alternate employment, pursuant to which, he was referred to the Medical Board at the Kanyakumari Medical College Hospital; that the Medical Board, after examining him and verifying his past medical records, opined that he suffers from Lumbar Canal Stenosis and therefore, he is not fit to continue as Driver and the said report dated 23.09.2016 was obtained by the petitioner through Right to Information Act and that despite sending several representations to the 1st and 2nd respondents, his request has not yet been considered and hence, the petitioner is before this Court with the relief stated supra.

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

4. It is not in dispute that the petitioner was referred to the Medical Board and the petitioner also appeared before it on 21.09.2016 at 10:30am along with all medical records. The Medical Board, after thoroughly examining him, has submitted a report dated 23.09.2016 to the 2nd respondent, which is annexed in the typeset of papers to the effect that the petitioner is unfit for the Driver job on account of Lumbar Canal Stenosis disease.

5. This Court, even after perusal of the medical report, cannot simply brush aside the request of the petitioner, namely, to provide light work, because allowing the petitioner to continue as Driver is not only hazardous to his health, but also to several passengers, who travel in the bus and also to the pedestrians on the road and there may be possibility of losing their precious life too. Section 47 of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (in short "the Act") clearly stipulates as under:

"47 Non-discrimination in Government employments -

(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay

<https://hcservices.southbar.in/hcservices> and service benefits:



Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, which is earlier."

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6. Considering all the above factors, a direction is issued to the 1st and 2nd respondents to provide alternate employment in the form of Light Duty to the petitioner forthwith, bearing in mind the provisions of Section 47 of the Act extracted supra and also by taking into account the medical report submitted by the Medical Board dated 23.09.2016.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/
Assistant Registrar(RTI)

/TRUE COPY/

Sub Assistant Registrar

To:

1. The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Kattapomman Nagar, Tirunelveli-627 011. Tirunelveli District.1
2. The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Nagercoil Region, Ranithottam, Nagercoil-629 001.
Kanyakumari District.
3. The Branch Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Ranithottam-I Branch, Ranithottam, Nagercoil-629 001.
Kanyakumari District.

+1cc to M/s.M.Dennis Joe, Advocate, in SR No.4985.

+1cc to M/s.K.Sathiya Singh, Advocate, in SR No.5644.

W.P. (MD) No.804 of 2017
31.01.2017

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