

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2018
Coram

The Hon'ble Mr. Justice Satrugana Pujahari

Writ Petition No.22212 of 2018
and
W.M.P.No.26031 and 26032 of 2018

S. Sivakumar

...Petitioner

Vs.

1. The Senior Divisional Manager (HRD)
Metropolitan Transport Corporation,
Pallavan Illam, Anna Salai,
Chennai - 600 002.
2. The Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam, Anna Salai,
Chennai - 600 002.
3. The Branch Manager,
Metropolitan Transport Corporation,
Pallavan Illam, Anna Salai,
Chennai - 600 002.
4. The Assistant Manager (Personal)
Metropolitan Transport Corporation,
Pallavan Illam, Anna Salai,
Chennai - 600 002.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the fourth respondent pertaining to the proceedings in Memo No.25024/papi(Nir) 2/MTC/2012, dated 18.07.2018 and to quash the same and consequently, to direct the respondents to permit the petitioner continue as a Helper non ITI by considering his representation dated 27.07.2018.

For Petitioner : Mr.P.Valliappan

O R D E R

Heard Mr.P.Valliappan, the learned counsel appearing for the petitioner. Since the Writ Petition is taken up for disposal at the stage of admission, and considering the nature of order to be passed herein, notice to the respondents is dispensed with.

2. The case of the petitioner in this Writ Petition is that, while he was working as driver in the respondent, Transport Corporation, he met with an accident, resulting in his physical disability. On account of his physical disability, he was given alternative employment on the certification of the Medical Board, and such alternative employment was being extended only for sixth months on the certification of the Medical Board. Last such extension was upto 01.08.2018. Thereafter, the physical disability of the petitioner though continuing, but, he has not been sent to the Medical Board, and vide the impugned order dated 18.07.2018, the Branch Manager of the Perambur Depot has been directed to provide him employment according to his service cader from 02.08.2018, since the tenure of his alternative employment is going to expire on 01.08.2018. The petitioner has come to this Court challenging the same to be illegal and arbitrary and to quash the same, with a consequential prayer directing the respondents to provide him such alternative employment.

3. The learned counsel appearing for the petitioners assails the impugned order on two grounds. Firstly, no opportunity of being heard was given to the petitioner to putforth his contentions before passing such order. Secondly, the petitioner has not even been served with the copy of such order to impugn the same in time.

4. It appears that though the impugned order, directing the Branch Manager of the Perambur Depot to provide the petitioner employment according to his service cader from 02.08.2018 was passed on 18.07.2018, the petitioner has not approached this Court challenging the same in time. Now the petitioner has come to this Court at a belated stage challenging the order to be illegal and arbitrary on the aforesaid two grounds. Be that as it may, considering the fact that the petitioner was stated to be continuing in physical disability and as such, not in a position to work as driver and fit for alternative employment as was extended to him earlier, he shall make a representation to the respondent concerned to send him to the Medical Board for examination of his disability for obtaining certification. Such representation shall be made

by the petitioner within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondent concerned, based on such certification, shall take a pragmatic decision within a period of two weeks from the date of receipt of such certification, as the petitioner is seeking such alternative employment not astutely to evade from work, but owing to physical disability sustained by him while in service under the respondents. However, it is made clear that, if the petitioner has not joined duty pursuant to the impugned order dated 18.07.2018, no coercive action shall be taken against him pursuant to such order hereafter.

5. With the aforesaid order, the Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

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+1cc to Mr.P.Valliappan, Advocate, S.R.No.59488

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NRI (CO)
GSP(18/09/2018)