



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 7348 of 2018

and

W.M.P. (MD) Nos. 7036 & 7037 of 2018

H. Christopher Ebenezer

... Petitioner

-Vs-

1. The Chairman and Managing Director,
Tamil Nadu Transport Corporation Ltd,
Chennai.
2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Tirunelveli & Nagercoil Zones,
KTC Nagar, Tirunelveli-627 011.
3. The Branch Manager,
Tamil Nadu State Transport Corporation Ltd.,
Tirunelveli Zone, Papapnasam Branch,
Tirunelveli District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the 2nd respondent vide his impugned order in Ka.No.5398/niya11/thaapoka/tili/2016 dated 06.01.2018 and quash the same and consequently direct the respondents to refer the petitioner for medical examination before the Government Medical Board, Tirunelveli within a time frame that may be stipulated by this court.

For Petitioner : Mr.R.Ponkarthikeyan
For Respondents : Mr.K.Sathiya singh

ORDER

The prayer sought for in this writ petition is for a writ of Certiorarified Mandamus, to call for the records pertaining to the 2nd respondent vide his impugned order in Ka.No.5398/niya11/thaapoka/tili/2016 dated 06.01.2018 and quash the same and consequently direct the respondents to refer the petitioner for medical examination before the Government Medical Board,



Tirunelveli within a time frame that may be stipulated by this court.

2.The petitioner has challenged the order issued by the respondent dated 06.01.2018, wherein his request, to refer to Thirunelveli Medical College Medical Board for the periodical checkup and give a certificate to that effect with regard to the eye sight of the petitioner so as to enable him to get a certificate as to whether he is fit or unfit to continue as Driver at the respondent Corporation, has been turned down.

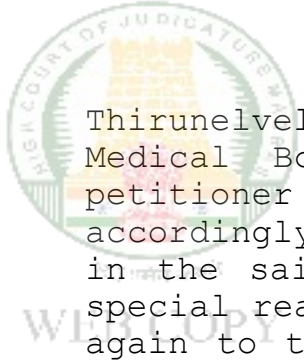
3.The reason cited in the impugned order dated 06.01.2018 by the respondent is that all the employees in that region are referred only to a private hospital, called Dr.Agarwal Eye Hospital. And therefore, the petitioner alone cannot be referred to the Government Medical College Hospital.

4.Assailing the said order, the learned counsel for the petitioner has submitted that even during last year, the very same issue arose where he was referred to the said private eye hospital i.e. Dr.Agarwal Eye Hospital, where they had given a certificate as unfit. Subsequently, the petitioner was referred to the Regional Medical Board, , Thirunelveli Medical College Hospital, Tirunelveli, where, after having examined the petitioner, had given a certificate that the petitioner would be fit with glasses for the driver post. Therefore, the learned counsel for the petitioner would submit that even this year, the same reference is made to the said private hospital, as they have already given the opinion as unfit against the petitioner without properly examining the petitioner last year itself, the very same opinion would come this year also. Therefore, apprehending the same, the petitioner had requested the respondent Corporation to refer him to the Government Medical College Hospital, which was turned down by the respondent.

5.Mr.K.Sathiyasingh, learned standing counsel appearing for the respondent Corporation per contra would submit that this is the practice in that region that all the employees are referred only to the said private hospital i.e. Dr.Agarwal Eye Hospital and therefore, if at all the the petitioner had been given certificate as fit to act as a driver, if he wore glasses as per the Regional Medical Board, Government Medical College Hospital, Tirunelveli, then, there can be no implement for the petitioner to be referred to the said private hospital to get a routine checkup for this year and his apprehension is unwarranted.

6.I have heard the rival submissions made by both sides.

7.As has been rightly pointed out by the the learned counsel for the petitioner that during last year itself, the very same private hospital had given a certificate after having examined the petitioner that he is unfit to be a driver. Only thereafter, he had been referred to the Government Medical College Hospital,



Thirunelveli and after having examined the petitioner, the Regional Medical Board had given an opinion and certificate that the petitioner is fit to be a driver, if he wear glasses and accordingly, he was given job of driver and he has been continuing in the said job. However, that being the position, there is no special reason attached with the respondent Corporation to send once again to the petitioner for the very same private hospital. Moreover, the petitioner has not chosen to be referred to any other private hospitals. But, he only seeks for reference to the Government Medical College Hospital, where the Regional Medical Board is constituted.

8. When such is the position, this Court is of the view that there is every justification on the part of the petitioner to seek reference to the Medical college hospital and the said request ought not to have been turned down by the respondent through the impugned order.

9. In view of the above, this Court is inclined to accept the plea of the petitioner and accordingly, this writ petition is disposed of at the admission stage itself, after hearing both sides as referred to above, with the following direction.

10. The impugned order is quashed and the respondents are directed to refer the petitioner to the Thirunelveli Medical College Hospital, Thirunelveli, where the Regional Medical Board can examine the petitioner and give a certificate whether he is continuing as Driver or not.

11. This writ petition is allowed with the terms indicated above. One such reference is made to the Tirunelveli Medical College Hospital, a date may be fixed and the same be intimated to the petitioner for appearance for medical examination and after having examined the petitioner, report shall be submitted by the Medical Board, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr.K.SATHIYA SINGH, ADVOCATE IN SR No. 60197
+ 1 CC TO Mr.R.PON KARTHIKEYAN, ADVOCATE IN SR No. 59845

ARUL/DSS
TE/KKR/SAR-1 : 23/04/2018 : 3P/3C