



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) Nos.7609 and 7610 of 2018

and

W.M.P. (MD) .Nos.7273 and 7274 of 2018

W.P. (MD) .No.7609 of 2018

P.Vasudevan

... Petitioner

Vs

1.Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Rep by its Managing Director,
Bye Pass Road, Madurai.

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

3.The Branch Manager,
Tamil Nadu State Transport
Corporation (Madurari) Ltd.,
Thirumangalam Branch,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to provide the petitioner alternative employment on permanent basis with pay protection, continuity of service in terms of Section 47(1) Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

W.P. (MD) .No.7610 of 2018

M.Sriram

... Petitioner

Vs

1.Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Rep by its Managing Director,
Bye Pass Road, Madurai.

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



3.The Branch Manager,
Tamil Nadu State Transport
Corporation (Madurari) Ltd.,
Ponmeni Branch,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to provide the petitioner alternative employment on permanent basis with pay protection, continuity of service in terms of Section 47(1) Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Petitioners : Mr.A.Rahul
For Respondents : Mr.AP.Muthupandian
Standing counsel for TNSTC

COMMON ORDER

The prayer sought for in these petitions is for a Writ of Mandamus directing the respondents to provide the petitioners' alternative employment on permanent basis with pay protection, continuity of service in terms of Section 47(1) of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2.Heard Mr.A.Rahul, learned counsel appearing for the petitioners and Mr.AP.Muthupandian, learned Standing Counsel for TNPSC appearing for the respondents.

3.According to the learned counsel for the petitioners, both the petitioners were working as Drivers and because of their defective vision, they had been referred to the Medical Board. After the recommendation of the Medical Board, since the petitioners were unfit to be employed as a Drivers in the respondent Corporation, the petitioners have been referred to Sub-committee constituted by the respondent Corporation to examine the physical status and to decide as to under what alternative duty, the petitioners can be placed. Accordingly, the sub-Committee constituted by the respondent Corporation, examined the petitioners and opined on 24.03.2017 by way of report that the petitioners' ailment is Defective Colour Vision and therefore, they recommended that the existing duty ie., technical duty, already had been entrusted to them, may be continued.

4.In spite of such recommendation made by the Sub-Committee, the petitioners' claim that, they have not been given regular alternative duty and therefore, in order to get regular alternative duty, both the petitioners have given representation on 14.03.2018 to the respondent Corporation and therefore, the petitioners have come before this Court with the aforesaid prayer in these petitions.



5.The learned counsel appearing for the petitioners would submit that even though the sub-Committee has recommended for continuation of duty, which they have already worked ie., technical duty, alternative employment has not been given to the petitioner and intermittently, they have changed the job given to the petitioners, which is in violation of Section 47(1) Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995(hereinafter referred to as 'the Act'). Therefore, the petitioners are entitled to get alternative employment on permanent basis within the meaning of Section 47(1) of the Act.

6.The learned Standing Counsel appearing for the respondents would submit that no doubt the Sub-Committee of the respondent Corporation has recommended that the petitioners can be permitted to continue in the existing duty. As per recommendation, the petitioners have not been deployed for earlier duty of Drivers, however, they have been given alternative duty. Here, the complaint of the petitioners is that there is no permanent alternative duty entrusted on the petitioners and therefore, under Section 47(1) of the Act, the respondent Corporation may be directed to give a permanent alternative duty.

7.In this regard, the learned Standing Counsel would submit that the petitioners would be given permanent alternative duty under Section 47(1) of the Act and the designation of the petitioners as Drivers would be continued accordingly.

8.In view of the said submission made by the learned Standing Counsel appearing for the respondent Corporation, the writ petitions are disposed of with the following directions;

"that the respondents are directed to provide permanent alternative employment/duty to the petitioners by changing the names /nomenclature of the job "Driver" which hitherto the petitioners have been doing before such alternative employment was offered to them and accordingly, place the petitioners in the alternative employment and continue to pay the salary of the petitioners hitherto receiving in the erstwhile job. The aforementioned direction shall be complied with by the respondents within a period of two weeks from the date of receipt of a copy of this order."

No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/



To

1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai.

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

3.The Branch Manager,
Tamil Nadu State Transport Corporation (Madurari) Ltd.,
Thirumangalam Branch,
Madurai.

4.The Branch Manager,
Tamil Nadu State Transport Corporation (Madurari) Ltd.,
Ponmeni Branch,
Madurai.

+2CC to Mr.A.Rahul, Advocate, SR.Nos.63702,63703

W.P. (MD)Nos.7609 and 7610 of 2018
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