

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.732 of 2019
and W.M.P.Nos.809 & 810 of 2019

V.Kumar

... Petitioner

Vs.

1.Metropolitan Transport Corporation
(Chennai) Ltd., rep. by its Managing Director,
Pallavan Salai, Chennai - 2.

2.The General Manager
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Salai, Chennai - 2.

3.The Senior Deputy Manager (HR)
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Salai, Chennai - 2.

4.The Dean,
Rajiv Gandhi Govt., General
Hospital, Chennai - 3.

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to continuously provide the petitioner the light work of Security Guard with effect from 13.10.2018 with continuity of service, pay protection and all other service benefits and wages by referring him to the Medical Board through the 4th respondent and not to insist or compel him to go on line and work as a driver unless he is found to be fit for the post of driver by the Medical Board.

For Petitioner : Mr.R.Krishnaswamy
For R1 to R3 : Mrs.Rajani Ramadoss,
Standing Counsel

For R4 : Mr.R.S.Selvam
Government Advocate

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus directing the respondents 1 to 3 to continuously provide the petitioner the light work of Security Guard with effect from 13.10.2018 with continuity of service, pay protection and all other service benefits and wages by referring him to the Medical Board through the 4th respondent and not to insist or compel him to go on line and work as a driver unless he is found to be fit for the post of driver by the Medical Board.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents 1 to 3 and the learned Government Advocate appearing for the 4th respondent.

3. The case of the petitioner is that the petitioner joined the respondents Corporation as Driver in the year 1990 and made permanent in the year 1991. The petitioner suffered severe pain and suffering in his spinal cord and he was admitted in the hospital on 17.02.1997 and underwent surgeries. He was discharged from the hospital on 28.02.1997. Due to pain, he could not do the work as driver. Therefore, he made a request to provide him suitable alternative employment. The 3rd respondent by his letter dated 21.01.2014 referred the petitioner to the 4th respondent to examine his fitness. Based on the said letter, the petitioner appeared before the Medical Board and medical report was sent to the 1st respondent on 18.02.2014 stating that the petitioner was unfit to do the work as driver. Thereafter, the petitioner was given the work of Security Guard till 12.10.2018. However, the petitioner was not given the light work of Security Guard from 13.10.2018 and he was orally directed to go on line and work as a driver. Therefore, the petitioner has made a representation dated 15.10.2018 to the 1st respondent to provide him the same light work of Security Guard. Since there is no response, the petitioner has again made a representation dated 21.12.2018 requesting them to refer the petitioner to the Medical Board to find out his fitness for the post of driver and provide him the same light work. After receiving his second representation, the petitioner was given light work orally with effect from 25.12.2018 and was informed that he would be given that work only for one month. Hence, this writ petition.

4. The learned counsel appearing for the petitioner would submit that the petitioner's case may be referred to Medical Board and as per the Medical Board's advice, the respondents may act.

5. The learned Standing Counsel appearing for the respondents 1 to 3 has also conceded to the request made by the learned counsel appearing for the petitioner.

6. Considering the facts and circumstances of the case, this Court directs the 1st respondent Transport Corporation to refer the case of the petitioner to Medical Board within a period of two weeks from the date of receipt of a copy of this order. The Medical Board shall give its report within a period of four weeks thereafter. The 1st respondent Transport Corporation shall pass appropriate orders on the petitioner's representation dated 21.12.2018 seeking alternative employment within a period of three weeks from the date of receipt of the Medical Board's report.

7. The writ petition is accordingly disposed of. No costs.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director,
Metropolitan Transport Corporation
Pallavan Salai,
(Chennai) Ltd.,
Chennai - 2.
2. The General Manager
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Salai,
Chennai - 2.
3. The Senior Deputy Manager (HR)
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Salai,
Chennai - 2.
4. The Dean,
Rajiv Gandhi Govt., General
Hospital, Chennai - 3.

+1cc to Mr.S.Rajeni Ramadass, Advocate, SR.No.82879
+1cc to Mr.V.Ajay Khose, Advocate, SR.No.82161
+1cc to the Govt.Pleader, Vide Sr.No.82812

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Kak(07/11/2019)