

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-04-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13849 of 2018

And

W.M.P.Nos.16366 of 2018

A.Venkatesan

.. Petitioner

vs

1. Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002.

2. Senior Deputy Manager (HRD),
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002.

3. Branch Manager,
Mandaveli Depot,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002.

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order Na.Ka.No.NIL dated 24.4.2018 consequent to their order passed under reference 25231/PD(AD)4/MTC/2016 dated 29.1.2018 passed by the second respondent and quash the same and consequently directing the respondents to continue to provide alternative duty as contemplated in Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 to the petitioner with continuity of the service and without any change in emoluments and benefits.

For Petitioner : Mr.A.Rajendiran

For Respondents : Mr.S.Sai Prasad

O R D E R

The order passed by the respondents, referring the writ petitioner to appear before the Medical Board, is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner is due to retire from service on 31.5.2019 and therefore, the light job already provided to him may be allowed to be continued till the writ petitioner attains the age of superannuation.

3. The learned counsel, appearing on behalf of the respondents, has no serious objections in respect of the submissions made by the learned counsel for the writ petitioner in view of the fact that the writ petitioner is going to retire on 31.5.2019.

4. Thus, in view of the submissions made by the respective learned counsels appearing on behalf of the writ petitioner as well as the respondents, this Court is inclined to direct the respondents to permit the writ petitioner to continue in the present position till 31.5.2019, the date on which the writ petitioner attains the age of superannuation.

5. However, this order need not be followed as a precedent in all other cases. This Court has to examine the practical and pragmatic interpretation of the provisions of the Right of Persons with Disability Act, 2016. A balancing approach is to be adopted. Considering the public interest involved as well as the corresponding rights of the employees providing alternate employment of light job to large number of Drivers and Conductors, the same will cause public inconvenience and it would be difficult for the competent authorities to manage the administration in Transport Corporation. The Drivers and Conductors are the important posts in Transport Corporation and the idea of getting alternate employment if allowed to be developed in the minds of the employees, the same will create issues and cause inconvenience to the public at large.

6. Thus, the pragmatic interpretation is certainly to be considered by this Court. However, in the present case on hand, the writ petitioner is attaining the age of superannuation on 31.5.2019, all these issues raised shall be adjudicated in a similar writ petition.

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AD IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002.
2. The Senior Deputy Manager (HRD),
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002.
3. The Branch Manager,
Mandaveli Depot,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002.

+1cc to Mr.A.Rajendiran, Advocate, S.R.No.38075

W.P.No.13849 of 2018

KK(CO)
CS/20/05/2019

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