

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15220 of 2019

V.Kamalanathan

... Petitioner

Vs.

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

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

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

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after calling the records pertaining to the orders dated 24.04.2015 and 01.02.2016 in Memo No.25199/Pa Pi(Ni)4/MTC/2014 passed by the second respondent, quash the order dated 24.04.2015 in so far as the condition to refer the petitioner to medical board once in 6 months and the order dated 01.02.2016 relieving him from the post of helper Non-ITI and directing him to work as driver and consequently direct the respondents 1 and 2 to refer the petitioner to the 3rd respondent/ medical board and to provide him suitable alternative employment with continuity of service, backwages and all other attendant service benefits w.e.f.10.02.2016 after adjusting the salary paid for the period between 08.06.2017 to 07.08.2017, award costs.

For Petitioner : Mr.V.Ajoy Khose
For Respondents : Mrs.Rajani Ramadoss

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the orders dated 24.04.2015 and 01.02.2016 in Memo

No.25199/Pa Pi(Ni)4/MTC/2014 passed by the second respondent, to quash the order dated 24.04.2015 in so far as the condition to refer the petitioner to medical board once in six months and the order dated 01.02.2016 relieving him from the post of helper Non-ITI and directing him to work as driver and consequently to direct the respondents 1 and 2 to refer the petitioner to the third respondent/ medical board and to provide him suitable alternative employment with continuity of service, backwages and all other attendant service benefits w.e.f.10.02.2016 after adjusting the salary paid for the period between 08.06.2017 to 07.08.2017.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3.The case of the petitioner is that the petitioner joined the first respondent Corporation as Driver in the year 1995. The petitioner suffered severe pain and suffering in his spinal cord and since he applied for medical leave for more than 60 days, he was referred to the Medical Board of the Rajiv Gandhi Government General Hospital. The Medical Board submitted its report dated 26.12.2014 certifying that the petitioner is suffering with disk prolapse at L4 and L5 and that he could not perform the duties of the Driver.

4.It is the further case of the petitioner that thereafter based on the Medical Board report and petitioner's request for alternative employment, the second respondent vide order dated 24.04.2015 provided alternative employment to the petitioner as Helper Non-ITI, with a condition that the petitioner's physical fitness should be assessed at the end of every six months by referring him to Medical Board. Thereafter, vide the impugned order dated 01.02.2016, the second respondent informed the petitioner that the Medical Board has submitted its report certifying that he is fit for the post of Driver and relieved the petitioner from the post of Non-ITI Helper on 10.02.2016 and directed the petitioner to work as Driver. Thereafter, the petitioner joined duty as Driver on 11.02.2016, however, he was not able to do the Driver work. Hence, the petitioner made representations seeking alternative employment and since there is no response, has come forward with this writ petition.

5.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.

6.The learned counsel appearing for the respondents concede to the request made by the learned counsel appearing for the petitioner.

7.Considering the facts and circumstances of the case, this Court directs the 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 respondent Transport Corporation shall pass appropriate orders on the petitioner's representation seeking alternative employment within a period of three weeks from the date of receipt of the Medical Board's report.

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

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

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

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

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

+1 CC to Mr.V.Ajoy Khose, Advocate sr 80592.

+1 CC to Mrs.Rajani Ramadoss, Advocate sr 80682.

W.P.No.15220 of 2019

PM(CO)
SP(30/10/2019)