

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.16284 of 2019
and W.M.P.No.15970 of 2019

A.Panchatcharam

...Petitioner

Vs

1.M/s.Metropolitan Transport Corporation,
(Chennai) Ltd.,
Rep. by its Senior Deputy Manager,
Pallavan House Chennai-2.

2.The Branch Manager,
Metropolitan Transport Corporation,
(Chennai)Ltd., Perambur Depot,
Perambur, Chennai-11.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the respondents, memo No.25199/Pa.Pl (Adm) 4/MTC/2016 dated 14.05.2018 issued by the first respondent and quash the same in part i.e for one year in the alternative service and consequently to direct the respondents to provide alternative employment contemplated the rights of persons with disabilities Act, 2016.

For Petitioner : Mr.Vijendran

For Respondents : M/s.Rajeni Ramadass

सत्यमेव जयते
O R D E R

The petitioner was appointed as a Driver at Tambaram Depot on 21.11.1996. While in service the petitioner suffered paralytic attack on 03.04.2015. The petitioner took treatment for about nine months. Thereafter, he reported for duty to the second respondent. According to the petitioner he suffered once again paralytic attack in September, 2016. After taking sustained treatment, the petitioner partially recovered from the paralytic attack. In the above circumstances, the petitioner was referred before the Medical Board, constituted by the respondent Corporation and he appeared before the Medical Board on 02.01.2017 and 23.01.2017. On assessment of his health condition, the Medical Board has given its opinion that the

petitioner suffers from neurological disorder and therefore, he was not fit to be posted once again as driver at present. The Medical Board's opinion, dated 20.10.2017, is enclosed in the typed set of papers.

2. On the basis of the Medical Board report, the respondent Corporation issued a letter dated 14.05.2018 posting the petitioner in an alternative employment for a period of one year with effect from 14.05.2018 to 13.05.2019 and thereafter, his further condition could be assessed for suitable employment. The said order is put to challenge by the petitioner in this writ petition.

3. Mr. Vijendran, the learned counsel appearing for the petitioner would submit that since, the petitioner having suffered paralytic attack twice, cannot be posted in alternative employment temporarily for a period of one year and again his suitability be assessed by the Medical Board. Therefore, he would submit that the petitioner may be given suitable employment till he attains the age of superannuation, as such requirement is mandatory under the Rights of Persons With Disabilities Act, 2016. Therefore, the order posting the petitioner in alternative employment only for a period of one year is per se contrary to the provisions of the Act and the same is illegal.

4. At this, Mrs. Rajeni Ramdoss, learned counsel appearing for the respondent Corporation would submit that the Medical Board's opinion dated 20.10.2017 was to the effect that the petitioner was not fit to be posted as Driver only for the present and therefore, the Corporation had issued the letter of appointment to the petitioner, accommodating him an alternative job for a period of one year. However, without subjecting himself to the Medical Board for its opinion once again, the petitioner has directly approached this Court, challenging the order passed by the Corporation on 14.05.2018, providing alternative employment to him.

5. By way of reply, Mr. Vijendran, learned counsel for the petitioner submits that the question of appearing before the Medical Board once again does not arise in this case, since the petitioner has suffered from acute paralytic attack and therefore, he is unfit to be posted as Driver in future. Therefore, the learned counsel would submit that the Corporation may be directed to provide alternative employment to the petitioner and allow him to work till he attains the age of superannuation.

6. Considered the submissions made by the learned counsel for the parties and perused the materials and pleadings

placed on record.

7.The Medical Board has given its opinion that the petitioner was not fit to act as Driver for the present and the conclusion of the Corporation, in pursuance of the Medical Board's opinion, is dated 14.05.2018 posting the petitioner in an alternative employment for a period of one year. Yet, from the facts as disclosed in the writ petition, it appears that the petitioner has suffered paralytic attack twice and therefore, it is very unlikely that the petitioner can be fit for doing the job as Driver in the Transport Corporation. In any case, without entering into the factual dispute of the matter, in the fitness of things, this Court feels that the petitioner ought to be directed to appear before the Medical Board once again, so that his medical condition could be reviewed and on the basis of medical report, further action could be taken by the Corporation for providing alternative employment to the petitioner in any suitable post and allow him to work till he attains the age of superannuation.

8.In the above circumstances there shall be a direction to the respondent Corporation to constitute a Medical Board within a period of two weeks from the date of receipt of a copy of this order and notice be issued to the petitioner to appear before the Medical Board. The Medical Board constituted by the Corporation shall assess the medical condition of the petitioner as on date and submit a report within a period of two weeks thereafter.

9.The Transport corporation is further directed to pass appropriate orders acting on the medical report, if necessary, by providing suitable alternate employment to the petitioner in the Corporation protecting his pay and allowances drawn by him as Driver and continue him to work till he attains the age of superannuation. The Corporation is directed to pass appropriate orders within a period of two months from the date of receipt of Medical opinion of the duly constituted Medical Board, by the Corporation.

With the above directions the writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

msk

To

1. The Senior Deputy Manager
Metropolitan Transport Corporation,
(Chennai) Ltd.,
Pallavan House Chennai-2.

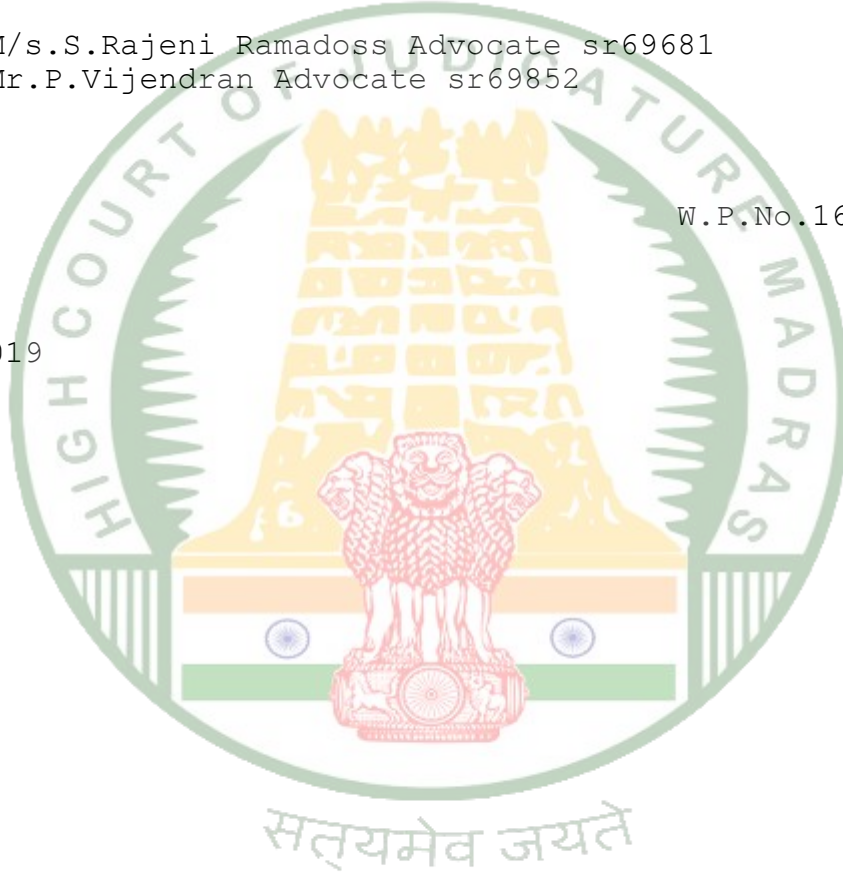
2.The Branch Manager,
Metropolitan Transport Corporation,
(Chennai)Ltd., Perambur Depot,
Perambur, Chennai-11.

+1 cc to M/s.S.Rajeni Ramadoss Advocate sr69681

+1 cc to Mr.P.Vijendran Advocate sr69852

W.P.No.16284 of 2019

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