

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.25983 of 2019

and

WMP.No.25414 of 2019 and 25410 of 2019

M. Kamaraj

.. Petitioner

Vs.

1. The Government of Tamil Nadu
Represented by Secretary,
The Government Transport Department,
Fort St. George,
Chennai- 600009.

2. The Managing Director,
State Transport Corporation,
Villupuram Division,
Tamil Nadu- 605602.

3. The Branch Manager,
State Transport Corporation,
Ambur,
Tamil Nadu- 635802.

4. The General Manager,
Vellore District,
Vellore- 632 009.

.. Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ or direction to call for the records on the file of the 4th respondent in Circular No.100626/sa 8/tha. Aa poka/ ve ma/2019, dated 29.03.2019 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to provide alternate employment to the petitioner (Staff No.41975) considering the nature of disability and pass order.

For petitioner : Mr. V. Raghavachari

For Respondents : Mr. R.S. Selvam,
Government Advocate for R1
Mr. Antony Arokiaraja for R2 to R4

O R D E R

The case of the petitioner is that the petitioner joined the services of respondents in the year 2013 and was appointed as a driver. He was being called upon to drive the vehicles repeatedly during nights for almost 3 and half years. On account of driving during nights on highways his vision in both the eyes got severely affected. Thereafter he took treatment in Agarwal's Eye Hospital, wherein he was diagnosed with "Proliferative Diabetic Petinopathy". The petitioner had to undergo laser treatment in both eyes. The petitioner had dispatched the leave letter to the third respondent and due to illness he was not fit for driving the vehicle. While the petitioner had taken medical leave, the 4th respondent issued a notice charging him of being absent unauthorizedly for the period from 15.12.2018 to 03.01.2019 and initiated disciplinary proceedings and issued a show cause notice calling the petitioner to appear before the enquiry committee and in the meantime the petitioner made an application for providing him an alternate employment considering the nature of disability, but till date the same was not considered. However, the petitioner filed the present Writ Petition challenging the show cause notice dated 29.03.2019 calling him to appear before the respondents for enquiry.

2. The learned counsel appearing for the petitioner would submit that the petitioner had filed the present writ petition challenging the show cause notice dated 29.03.2019 however the petitioner has also made representation for providing him alternate employment, till date alternate employment was not provided. However, without providing alternate employment, issuing show cause notice is unsustainable one and therefore, praying for appropriate orders.

3. The learned counsel for the respondent would submit that though the petitioner pleaded in the affidavit for alternate appointment, there is no representation to that effect from the petitioner. The present impugned order is only a show cause notice calling upon the petitioner to appear for enquiry. However till date the petitioner has neither submitted any

leave application nor made any representation for alternate employment.

4. Considering the facts and circumstances of the case though the petitioner averred that he had made a representation for alternate employment however no records were produced before this Court. On the other hand, only a letter dated 11.07.2019 was annexed. Admittedly the petitioner absented himself for the period from 15.12.2018 to 3.1.2019 and that was the reason why the show cause was issued. In view of the above, I am not inclined to interfere with the impugned order of the respondent. However liberty is granted to the petitioner to work out his remedy in the manner known to law. The Writ Petition is disposed of with the above observation. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn

To

1.The Secretary,
Transport Department,
Fort St.George, Chennai-600 009.

2.The Managing Director,
State Transport Corporation,
Villupuram Division,
Tamil Nadu-605 602.

3.The Branch Manager,
State Transport Corporationm
Ambur, Tamil Nadu-635 802.

4.The General Manager,
Vellore District,
Vellore-632 009.

+1cc to Mr. Antony Arokiaraja, Advocate SR.80299

+1cc to the Government Pleader SR.80192

W.P.No.25983 of 2019

and

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VD(CO)

CB(26/11/2019)