

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P.No.31978 of 2018

and

W.M.P.Nos.37230, 37234 & 37236 of 2018

K. Murali

.. Petitioner

Vs.

1. The Management,
The Metropolitan Transport Corporation,
Rep. by its Senior Deputy Manager, (MA.VA.MEY)
Pallavan Salai, Chennai - 600 002.

2. The Assistant Manager (Paniyalar),
The Metropolitan Transport Corporation,
Pallavan Salai,
Chennai - 600 002.

.. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the respondents in KURIPPANAI YEN.220/PAPE (NEER) 4/MAPOKA/2017 dated 14.05.2018 and quash the same as illegal and consequently direct the respondent to continuously provide the light duty work which was already given to the petitioner for the past eight months such as security Guard in the Ayanavaram Branch office or any alternative light duty with pay protection as per Section 47 of the persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and based on the disability certificate given by the Medical Board to the petitioner till his superannuation.

For Petitioner : Mr.R.Y George Williams

For Respondents: Mrs.Rajeni Ramadoss
Standing Counsel

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O R D E R

The Writ Petition has been filed seeking direction to quash the order dated 14.05.2018 and direct the respondents to continuously provide light duty work to the petitioner on the ground that the petitioner is suffering disabilities.

2. The brief facts of the case are :-

The petitioner was working as a Driver in the respondents Corporation and he suffered back pain during the course of employment, and medical opinion was given that his spinal cord had collapsed. On account of his ill-health condition, the petitioner requested the Management to provide light duty. He was asked to appear before the Medical Board on 22.12.2017. The Medical Board after examination, by an order dated 22.12.2017, gave a finding that the petitioner K.Murali is not fit for the post of Driver and thereby the disability was confirmed. Thereafter, the petitioner has been provided with an alternative employment only for a period of six months, by order dated employment on 14.05.2018 till 14.11.2018 and thereafter, it has been mentioned in the said order that the case of the petitioner would be reviewed by the Medical Board after six months. Aggrieved by the same, the petitioner has filed this Writ Petition.

3. Learned counsel appearing for the petitioner would submit that the Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was brought into force only for the purpose of granting some kind of relief to the affected parties; but, on account of the procedures adopted by the Transport Corporation, the petitioner is put under continuous harassment, by directing him to appear before the Medical Board once in six months and that is not the procedure contemplated in the enactment; therefore, the direction of the Transport Corporation asking the person suffering from disablement to appear before the Medical Board once in six months, should be forthwith put to an end.

4. Learned counsel appearing for the respondents would submit that many of the persons, who are fit to continue in their post also, quite often approach the Corporation seeking for alternate employment which is a benefit provided for disabled persons only, which is causing paralysis in the administration of the Corporation and, therefore, some kind of protection is needed so that undeserved persons do not derive benefit under the Act.

5. Considering the interest of both sides, the petitioner is directed to appear before the Medical Board, to be constituted by the Director of Medical Education and the report filed by the Medical Board shall be the basis for the respondents to decide on the disablement of the petitioner. If the report discloses that the petitioner is suffering from permanent disability, then he should be provided with light duty as before continuously without further reference to the Medical Board. However, if the report of the Medical Board discloses that the disablement is only temporary and not permanent, the

petitioner should appear before the Medical Board during the period when the respondents refer him for subsequent assessment.

6. A copy of this order shall be communicated to the Director of Medical Education, for the purpose of constitution of the Medical Board.

7. With the above directions, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petitions are closed. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

asi/avr

To

1. The Senior Deputy Manager, (MA.VA.MEY)
The Metropolitan Transport Corporation,
Pallavan Salai, Chennai - 600 002.
2. The Assistant Manager (Paniyalar),
The Metropolitan Transport Corporation,
Pallavan Salai, Chennai - 600 002.
3. The Director,
Director of Medical Education,
Chennai.

+1cc to Mr.R.Y George Williams, Advocate sr.no.1169
+1cc to Mrs.Rajeni Ramadoss, Advocate sr.no.895

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