



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P.(MD)No.1765 of 2014

and

M.P(MD)No.1 of 2014

A.James

... Petitioner

Vs.

1.The Management of Tamil Nadu State
Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam,
Represented by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region,
Trichy.

3.The Branch Manager,
Manaparai Branch,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Manaparai.

4.Annal Gandhi Memorial Government Hospital,
Represented by its Dean,
Tiruchirapalli-17.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 to refer the petitioner to Medical Board of 4th respondent hospital to assess his disability and to provide him alternative light duty with pay protection, continuity of service, back wages.

For Petitioner	: Mr.A.Rahul
For R1 to R3	: Mr.D.Sivaraman
For R4	: Mr.K.Mu.Muthu,
	Additional Government Pleader

**ORDER**

The relief sought for in the present writ petition is to direct the respondents 1 & 2 to refer the petitioner to the Medical Board of the fourth respondent hospital to assess his disability and to provide alternative light duty with pay protection, continuity of service, back wages etc.,

2. The writ petitioner was appointed as a driver and the writ petitioner states that he suffered certain disabilities and accordingly, made a representation to the respondents to refer him to the fourth respondent hospital for the purpose of assessing his disability.

3. The learned counsel appearing on behalf of the respondents 1 to 3 states that the writ petitioner was employed in the second respondent Transport Corporation. He was performing his duties in the bus TN 45/N 2583 in Manapparai to Vellore route. On 3.12.2007 at about 04.15 a.m., near Palur, he drove the bus in a rash and negligent manner and dashed against a Tanker Lorry, which was coming from the opposite direction. Due to the accident, the passengers in the bus sustained grievous injuries and 6 passengers, lorry driver and the cleaner sustained grievous injuries and there was a damage to the extent of Rs.47,933/- to the Corporation bus. The accident occurred on account of the fault committed by the writ petitioner.

4. It is further stated that in respect of the allegations of the writ petitioner to refer him to the Medical Board, the petitioner was referred to Dindigul Government Hospital for Medical examination to ascertain his physical fitness for providing alternative employment. Accordingly, he was appeared before the Government Hospital, Dindigul on 09.04.2014. After the medical examination, the Medical Board of the Government Hospital, Dindigul had referred the writ petitioner to the Regional Medical Board of Rajaji Government Hospital, Madurai. Accordingly, the writ petitioner was informed to appear before the Medical Board at Rajaji Government Hospital, Madurai on 17.06.2014 as advised by the Dindigul Government Hospital. However, the writ petitioner had not appeared before the Medical Board at Rajaji Government Hospital, Madurai till date and he is performing duty as driver till today in the respondent Corporation in Trichy Region at Manapparai Branch. In view of the fact that the writ petitioner is continuing his duties and working as a driver for the past many years, he is not suffering from any disability.

5. The learned counsel appearing on behalf of the respondent Corporation reiterated that the writ petitioner had not appeared before the Medical Board at Rajaji Hospital, Madurai and therefore, he is not entitled for any relief.



6. The learned counsel appearing for the petitioner states that the petitioner appeared before the Medical Board. However, such disputed facts cannot be adjudicated in a writ proceedings and the said facts are to be verified by the competent authorities.

7. The learned counsel for the respondents submitted the copy of the report submitted by the Medical Board, Dindigul in view of the fact that the petitioner has not appeared before the Medical Board at Madurai, no such report was received. Beyond all these factors the writ petitioner is continuing as a driver in the respondent corporation.

8. This being the factum, if at all the writ petitioner is continuing with any serious disability as of now, it is left open to him to submit a representation to the authorities competent and in the event of receiving any such representation, the authorities competent shall consider the same and initiate appropriate action by following the rules in force. However, the present writ petition deserves no further consideration as it was filed in the year 2014 and the writ petitioner is performing the duties and responsibilities for the past 5 years during the pendency of the writ petition and any such fresh claim regarding disability, approached properly by way of submitting representation.

9. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

The Dean,
Annal Gandhi Memorial Government Hospital,
Tiruchirapalli-17.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-81629[F] dated 14/08/2019)

+1 CC to M/s.SPL GP (SR-81955[F] dated 16/08/2019)

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JM/26.08.2019/3P/4C