

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.3012 of 2020
and WMP Nos.3515 and 3517 of 2020

C.Murugesan

... Petitioner

-Vs-

1. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
12, Ramakrishna Road,
Salem - 636 007.
 2. The General Manager,
Tamil Nadu State Transport Corporation (Salem) Limited,
12, Ramakrishna Road,
Salem - 636 007.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to provide the petitioner with permanent alternative employment in the cadre equal to the post of conductor with pay protection, continuity of service and all other attendant benefits as per Section 47(1) of the Persons with Disabilities (Equal Opportunities Protection and of Rights and Full Participation) Act 1995 duly considering his physical ability to continue in the post of Conductor.

For Petitioner : Mrs.S.Girija

For Respondents : Mr.D.Raghu
Standing Counsel for
respondents

ORDER

This Writ Petition has been filed for the issue of writ of Mandamus, directing the respondents to provide the petitioner with the permanent alternative employment in the cadre equal to the post of conductor by considering the physical disability of the petitioner.

2. The case of the petitioner is that he joined the service of the respondent corporation in the year 1997. While he was on duty, there was an accident and he sustained a major bone fracture. This happened in the year 2015. Taking into consideration the physical incapacity, the petitioner was provided with a light duty employment between the year 2015 to 2017. The petitioner was thereafter directed to appear before the Medical Board in the year 2017. According to the petitioner, he was continued to be given light duty till the year 2018.

3. The grievance expressed by the petitioner is that the petitioner was requesting for an alternative employment considering his physical disability and whereas a charge memo came to be issued against the petitioner on 30.10.2018 on the ground of unauthorized absence. pursuant to the charge memo, the petitioner had given his explanation and an Enquiry officer was appointed and the Enquiry was also completed. The Enquiry report was also served on the petitioner and his explanation was called for. The petitioner had sought for time to give his explanation. In the meantime, the petitioner also requested the respondent corporation to consider giving him an alternative employment on the ground of physical disability. Since the same has not been considered by the respondent corporation, the present writ petition has been filed before this Court seeking for appropriate directions.

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

5. It is seen from records that the petitioner was last sent to the Medical Board for examination in the year 2017. According to the respondent corporation, the petitioner is fit to continue as a conductor in the transport corporation. However, according to the petitioner, his physical disability prevents him from continuing as a Conductor and therefore, the petitioner must be given light duty. In the meantime, the Disciplinary proceedings came to be initiated on the ground of unauthorized absence and it has now reached the stage of calling for explanation from the petitioner on the enquiry report that has been submitted by the enquiry officer. The respondent corporation before coming to any conclusion in the enquiry proceedings, must necessarily consider the physical status of the petitioner and must get a certificate from the Medical Board regarding the fitness of the petitioner to continue as a conductor. This should be done without prejudice to the Enquiry proceedings, which are already pending. The Medical report will

also help the respondent corporation to come to a conclusion even in the disciplinary proceedings.

6. In view of the above discussion, there shall be a direction to the 2nd respondent to complete the disciplinary proceedings within a period of four weeks from the date of receipt of copy of this order and pass final orders. In the meantime, the 2nd respondent is also directed to assess the health status of the petitioner by directing him to appear before the Medical Board and get a Medical report before coming to any final conclusion. This will also help the 2nd respondent to address the issue regarding alternative employment and also in the Disciplinary proceedings. The petitioner is directed to make a fresh representation to the 2nd respondent along with copy of this order.

7. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
12, Ramakrishna Road,
Salem - 636 007.
2. The General Manager,
Tamil Nadu State Transport Corporation (Salem) Limited,
12, Ramakrishna Road,
Salem - 636 007

+1cc to Mr.D.Raghu , Advocate SR.No. 10456

+1cc to M/s.S.Girija , Advocate SR.No. 10255

W.P.No.3012 of 2020

A.SK(12/02/2020)