



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.12.2020**

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

W.P. (MD) No.17671 of 2020

and

W.M.P. (MD) No.14751 of 2020

C.Elamanchaiya

...Petitioner

Vs

1.The Management of
Tamilnadu State Transport Corporation
(Kumbakonam) Limited.,
represented by its Managing Director,
Kumbakonam.

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

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to refer the petitioner to the medical board of any Government Hospitals to ascertain his physical fitness to work as Assistant Tradesman and to direct the respondents to forthwith provide alternative employment to him with pay protection, continuity of service and back wages payable for the disengagement period, in terms of section 20(4) Rights of Persons with Disabilities Act, 2016 and all other attendant benefits, by considering the representation dated 24.10.2020.

For Petitioner : Mr.A.Rahul

For Respondents: Mr.P.M.Vishnuvarthan
Standing Counsel

ORDER

This Writ Petition is filed to direct the respondents to refer the petitioner to the medical board of any Government Hospitals to ascertain his physical fitness to work as Assistant Tradesman and to direct the respondents to provide employment to the petitioner, by considering the representation dated 24.10.2020.



2.By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

3.It is the grievance of the petitioner that he was working as Assistant Tradesman in the respondent Corporation from 22.04.1998. Since the petitioner attended heavy work in the respondent Corporation, like removing tyres, lifting heavy articles and etc., he suffered nerve compression in his spinal cord, for which, he was taking treatment and was advised by the Doctors to attend light work.

4.The learned counsel appearing for the petitioner would submit that as per Section 20 (4) of Right of the Persons with Disabilities Act, 2016, no employer shall dispense with the service of an employee on the ground that if he acquired disabilities, during his service and the employee concerned shall be shifted to some other post with the same pay scale and service benefits.

5.The learned counsel would further submit that if the respondents want to ascertain the physical fitness of the petitioner, they may refer the petitioner to the medical board of any Government Hospitals to ascertain his physical fitness to work as Assistant Tradesman and thereby, the respondents can consider the claim of the petitioner. In this regard, the petitioner has already made a representation dated 24.10.2020 to the respondents seeking to provide alternative work, but the same has not been considered so far. Hence, the present writ petition.

6.Mr.P.M.Vishnuvarthan, learned Standing Counsel appearing for the respondents would submit that the petitioner's representation dated 24.10.2020, would be considered by the respondents on merits and in accordance with law, after sending the petitioner to the medical board of any Government Hospitals to ascertain his physical fitness to work as Assistant Tradesman, if necessary, within a period of eight weeks.

7.In view of the submissions made by the learned counsel on either side, this Court is inclined to pass the following directions:-

i) the respondents are directed to consider the petitioner's representation dated 24.10.2020 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order; and

ii) the respondents are at liberty to send the petitioner to the medical board of any Government Hospitals to ascertain his physical fitness to work as Assistant Tradesman, if necessary;



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

Sd/-

Assistant Registrar (Records)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.A.RAHUL, Advocate (SR-24496[F] dated 08/12/2020)

W.P. (MD) No.17671 of 2020

04.12.2020

SS (CO)

NR (22/12/2020) 3P : 2C