



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2020

CORAM:

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

W.P. (MD)No.3618 of 2014

and

M.P. (MD) .No.1 of 2014

P.Udhayakannan

.. Petitioner

Vs.

1.The Management of
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Madurai Region,
Rep. by its General Manager, Madurai.

2.The Regional Medical Board,
Rep.by its Chairman,
Government Rajaji Hospital, Madurai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records from the second respondent relating to its impugned report dated 03.12.2011, quash the same and consequently to direct the first respondent to provide a suitable alternative employment to the petitioner under Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, by taking note of his disability and educational qualification, with pay protection, continuity of service, backwages from 11.05.2013 and all other attendant benefits.

For Petitioner : Mr.RM.Sivakumar

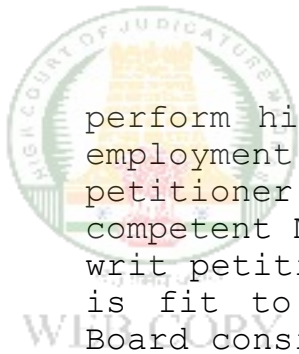
For Respondent 1 : Mr.J.Senthilkumariah

For Respondent 2 : Mr.S.Dhayalan, Government Advocate

ORDER

The order, dated 03.12.2011 passed by the second respondent is sought to be quashed in the present writ petition. The impugned order was issued by the Orthopaedic Disability Special Board of Government Rajaji Hospital at Madurai.

2. The grievances of the writ petitioner is that he was appointed as driver in the first respondent Corporation and met with an accident and sustained grievous injuries. After taking treatment, he joined duty and the petitioner has stated that he was unable to



perform his duties and responsibilities and therefore an alternate employment is to be provided to him. As per the Rules in force, the petitioner was referred to the Medical Board for opinion. The competent Medical Board consisting three expert doctors examined the writ petitioner and issued their opinion stating that the petitioner is fit to perform his duties. The Orthopaedic Disability Special Board consists of professors of Orthopaedics and who are all experts in the Department of Orthopaedic at Government Rajaji Hospital.

3. This Court is of the considered opinion that the expert medical opinion can be interfered with, if there is any contra evidence available. The Court is not an expert body in the medical field. In normal circumstances, the opinion of the competent Medical Board is to be relied on. If the said opinion is to be disputed, then, the petitioner must submit contra evidence to rebut the said opinion. In the absence of any contra evidence, the doctors' opinion is to be relied on for all purposes. In the present case, the opinion has not been given by one doctor. It is the opinion of the Orthopaedic Disabilities Special Board consist of three expert doctors. This being the fact, this Court is of the opinion that the relief as such sought for to provide alternate employment as per the Disabilities Act cannot be considered.

4. The learned counsel appearing on behalf of the respondents brought to the notice of this Court that though the writ petition is filed in the year 2014, the writ petitioner is performing his duties and responsibilities all along from the year 2014 and even now he is working with the first respondent/Transport Corporation.

5. This being the fact, this Court is not inclined to grant a relief as such sought for in this writ petition and accordingly, this writ petition stands dismissed. No Costs. Consequently, connected M.P. (MD).No.1 of 2014 is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

+1 CC to M/s.Special Govt.Pleader (SR-19453[F] dated 08/10/2020)

**Order Made in
W.P. (MD)No.3618 of 2014
08.10.2020**

PJL

SDS (19.10.2020) 2P-2C

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