

15.
12.12.2022
S.D.

W.P.A. 25994 of 2022

Balaram Bose
Vs.
The State of West Bengal & Ors.

Ms. Ananya Neogi
Mr. Guddu Singh

... For the Petitioner

Mr. Ayan Banerjee
Ms. Debarshee Dhamali

....For the SBSTC

Affidavit of service filed in Court be retained with the records.

Ms. Neogi, learned counsel appearing on behalf of the petitioner submits that the petitioner who was a driver with South Bengal State Transport Corporation (in short, "SBSTC") met with an accident on September 29, 2021. After his accident, the petitioner underwent a surgery. Report from the National Institute for Locomotor Disabilities (Divyangjan) provides evidence for the fact that the petitioner has been recommended to avoid bending, heavy weight lifting, prolong sitting or standing. The said report held that the petitioner was doing well and should continue his exercises regularly. The petitioner was asked to review the situation after three months.

The learned counsel also relies on an office order dated August 16, 2022 whereby the petitioner was advised to do light nature of job as driving was held to be risky for him at that relevant point of time. The said office order was issued to Senior Administrative Officer, SBSTC. Relying with the aforesaid medical report and also the office order, the petitioner claims to be permanently given light duties instead of driving heavy vehicles.

Mr. Banerjee, learned counsel appearing on behalf of the SBSTC submits that there is no policy for granting lighter duties. However, the petitioner's case will be considered sympathetically and will be reviewed from time to time till such time he is able to resume his full duties. The petitioner has relied on a medical report dated August 5, 2022. The petitioner was required to review after three months. Subsequently, no further medical report has been produced by the petitioner for reviewing his status.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that the employer, SBSTC has taken a fair stand. The employer is willing to consider the petitioner's condition from time to time based on periodical review of his health status, till such time the petitioner is able to regain his normal health and

recover completely from the accident. The employer is willing to consider the petitioner's representation to be allotted lighter duties in the interregnum.

However, petitioner cannot be allowed to take recourse to the fact that he had unfortunately suffered of accident for the purpose of permanently being allotted lighter duties.

There is no reason to apprehend that the petitioner will be unfairly terminated from services since the employer is willing to consider the representationS of the petitioner sympathetically after periodic medical review. The petitioner's apprehension that he may be terminated in future is preemptive in nature. Such a cause of action is premature as on date.

In the light of the discussions above, the writ petition being **W.P.A. 25994 of 2022** is **dismissed** without any order as to costs.

Since no affidavits have been directed to be exchanged in the said writ petition, all the allegations contained therein are deemed not to have been admitted by the parties.

In the event, the petitioner provides medical report showing that he is unfit to perform heavy duties by December 30, 2022, the employer/SBSTC shall consider the prayer of the petitioner sympathetically.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)