



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.15544 of 2021 and

W.M.P.(MD).Nos.12470 to 12472 of 2021

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A.Velliappan

... Petitioner

Vs.

1.The Principal Secretary to the Government,
Health Department,
Fort St.George,
Chennai.

2.The Director of Health Service,
Office of the Director of Health Services,
Chennai.

3.The General Manager,
Tamil Nadu Transport Corporation (Madurai) Limited,
Dindigul Region,
Dindigul.

... Respondents

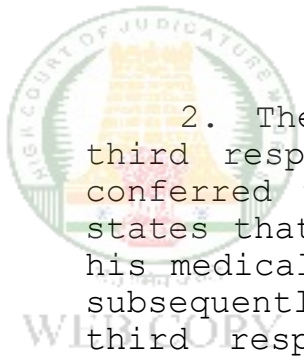
Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the third respondent in பார்வை:ஆட்சி/ஆ 2/2/839-2 dated 11.06.2021 and quash the same as illegal and consequently direct the third respondent to provide alternative employment to the petitioner by considering the representation of the petitioner dated 17.08.2021.

For Petitioner : Mr.N.Mohideen Basha

For Respondent : Mr.D.S.Nedunchezian
Government Advocate for RR1 & 2

O R D E R

The order impugned dated 11.06.2021 issued by the General Manager of the Transport Corporation is under challenge in the present Writ Petition.



2. The petitioner was appointed as Temporary Driver in the third respondent Transport Corporation in the year 2007. He was conferred with permanent status in the year 2010. The petitioner states that he was unable to perform the duties of a driver, due to his medical condition. He was also allotted duty as Time Keeper and subsequently, referred to the Medical Board for appearance. The third respondent in his letter dated 09.03.2021 forwarded the petitioner's case to the Regional Medical Board for examination. Accordingly, the Medical Board submitted their report. Thereafter, the impugned order has been passed.

3. The learned counsel for the petitioner states that the petitioner is not fit to perform his duties of a driver and therefore, he was considered and posted as Time Keeper on some occasions. However, the General Manager referred the case of the writ petitioner to the Medical Board for the purpose of assessment. Under these circumstances, the case of the writ petitioner ought to have been considered for providing a light duty. Contrarily, the third respondent passed the impugned order stating that the petitioner is fit to join duty as driver [heavy vehicles].

4. This Court is of the considered opinion that as per the request of the petitioner, he was provided with a duty, considering his representation. However, as per the Rules, the Authorities Competent is bound to refer the case to the Medical Board in such circumstances. The Medical Board is competent to assess the disability of the employees and based on the report of the Medical Board, appropriate decisions are to be taken.

5. In the present case, the General Manager in proceedings dated 09.03.2021, referred the case of the writ petitioner to the Regional Medical Board, Government Medical College & Hospital, Theni District. The Medical Board examined the petitioner and submitted a report stating that the petitioner is fit to join duty as Driver [heavy vehicles]. Based on the report of the Regional Medical Board, the General Manager passed the order dated 11.06.2021 stating that as per the opinion of the Medical Board, the petitioner has to perform his duties of a driver.

6. The respondents have followed the procedures by referring the case of the writ petitioner to the Medical Board and based on the report of the Medical Board, the order impugned has been passed asking the petitioner to perform the duties of a driver [heavy vehicles]. This being the factum established, this Court do not find any infirmity or perversity with reference to the procedures followed by the respondents and once the Competent Regional Medical Board submitted a report, the same became final which is accepted by an employer.



7. In this view of the matter, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

- 1.The Principal Secretary to the Government,
Health Department,
Fort St.George,
Chennai.
- 2.The Director of Health Service,
Office of the Director of Health Services,
Chennai.
- 3.The General Manager,
Tamil Nadu Transport Corporation (Madurai) Limited,
Dindigul Region,
Dindigul.

+1 CC to M/s.SPL GP (SR-7145[F] dated 18/02/2022)

ORDER MADE IN
W.P. (MD) No.15544 of 2021

18.02.2022

PP(12.03.2022) 3P 5C