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W.P.No.5031 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.5031 of 2019

L.Ravikumar (P.R.No.C42108)
Sr.Driver

... Petitioner

Vs.

1. Principal Secretary
Transport Department
Government of Tamilnadu
Secretariat Fort St.George
Chennai - 600 009.
2. Managing Director
Tamil Nadu State Transport
Corporation Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.
3. General Manager
Tamil Nadu State Transport
Corporation Ltd.,
Region Office, Chenni Malai Road
Erode - 638 001
Coimbatore - 641 043.

Respondents

...



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Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents to refer the petitioner to Medical Board for examining him physically for the suitability of him for the purpose continuing the job of the driver and in the event of Medical Board furnishing its report concluding that he should not be permitted to drive vehicles, he may be provided with alternative duty as mandated in the Disabilities Act in the same scale of the pay and other benefits with continuity of service.

For Petitioner : Mr.A.Rajendiran

For R1and R2 : Mr.T.M.Rajangam
Government Advocate

For R3 : Mr.M.Murali Vinoth

ORDER

When this matter came up for hearing on 09.03.2023, this Court has passed the following orders :

*“This writ petition has been filed Writ of Mandamus,
directing the respondents to refer the petitioner to Medical*



Board for examining him physically for the suitability of him for the purpose continuing the job of the driver and in the event of Medical Board furnishing its report concluding that he should no be permitted to drive vehicles, he may be provided with alternative duty as mandated in the Disabilities Act in the same scale of the pay and other benefits with continuity of service.

2. The grievance of the petitioner is that the petitioner was working in the respondent/Corporation herein as a Senior Driver and he has rendered 11 years of service. While he was in service, he was suffering from heart ailments and after heart operation, he approached the third respondent for alternative duty and the same was granted as Security Guard. It is stated that Section 47 of the Disabilities Act, on such occasion any employee is entitled for alternative employment. Thereafter, he was abruptly stopped the benefits. Subsequently, he sent a representation dated 14.10.2016 to the third respondent requesting him for alternative employment and the same was given for one year and 9 months and now, it was stopped abruptly. Now, the petitioner has approached this Court seeking a direction to the respondents to refer the petitioner to Medical Board for examining him physically for the suitability of him for the



purpose continuing the job of the driver and in the event of Medical Board furnishing its report concluding that he should not be permitted to drive vehicles, he may be provided with alternative duty as mandated in the Disabilities Act in the same scale of the pay and other benefits with continuity of service.

3. The learned Government Advocate appearing for the respondents submitted that the writ petitioner is a driver of the respondent/Corporation and he prays to provide alternative employment to him based on the certificate issue by the Medical Board. Since the writ petitioner made a representation that it is not possible to him to do the driver duty due to he underwent heart surgery and the petitioner was directed to appear before the Medical Board at Rajiv Government Hospital, Chennai, to assess the health condition as well as the percentage of permanent disability if any, on 02.03.2019, the petitioner has also appeared before the Medical Board on 03.05.2019 and certified that he is unfit for driver duty/job without mentioning the percentage of disability suffered, which is an essential aspect to provide alternative employment. The respondent/Corporation sent a reminder dated 09.07.2020 to the said Medical Board to assess and certify the percentage of disability suffered by him



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as such as the petitioner also appeared and the Medical Board again certified as he is unfit for driver job without mentioning the percentage of disability suffering. The petitioner was provided an alternative employment as security guard and also performed these said alternative employment from 24.09.2020 itself. The administrative system of the respondent/Corporation if an employee who seeks alternative employment are directed to appear before the Medical Board for assessing their suffering of permanent disability and based on the certificate who are suffering 40% or more disability placed before the Board of Directors for obtaining and then provided alternative employment. In this issue, it is to clarify whether the writ petitioner suffers these disabilities is permanent in nature of temporary one and the percentage of disability suffered by him. Even though the percentage of disability not yet assessed, the respondent/Corporation provided alternative employment to the writ petitioner as bunk duty for two years and even now sanctioned two months leave now he is under serving at Gobichettipalayam of the respondent/Corporation at Coimbatore. Therefore, in the above writ petition nothing survives for further adjudication in this matter. Hence, the relief sought for by the writ petitioner has now become infructuous.



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4. List the matter on 15.03.2023 for further hearing.

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2. Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner would submit that even though the petitioner was provided an alternative job as security based on the medical report sent by the Rajiv Gandhi Government General Hospital, Chennai on 03.05.2019, the petitioner is forced to do the driver job by the respondent authorities and due to which, he suffers a lot. In this regard, the petitioner has sent a representation to the 3rd respondent on 13.01.2023 and the same is produced before this Court by the learned counsel for the petitioner.

3. In view of the above submission and the letter produced by the learned counsel for the petitioner, this Court is of the view that since the petitioner was already re-employed as Security on the ground of disability, he may be allowed to continue in the same job or he may be provided any lighter job on the disability category.

4. Accordingly, the petitioner is hereby directed to appear before the



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3rd respondent on 20.01.2023, and upon appearance of the petitioner, the 3rd

respondent is directed to consider his representation dated 13.01.2023 and

provide him any lighter job as stated above without fail.

5. In the result, this Writ Petition is disposed of. No costs.

15.03.2023

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Internet : Yes / No

Index : Yes / No

Note : Issue order copy on 16.03.2023

To

1. The Principal Secretary,
Transport Department
Government of Tamilnadu
Secretariat Fort St.George
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.
3. The General Manager
Tamil Nadu State Transport Corporation Ltd.,
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V.BHAVANI SUBBAROYAN.J.,

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