



WEB COPY



W.P.No.22131 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.22131 of 2023
and W.M.P.No. 21535 of 2023

V.Senthil

... Petitioner

Versus

1.The General Manager
Tamil Nadu State Transport Corporation
Villupuram Limited, Villupuram – 605 602

2.The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Region, Villupuram – 605 602

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to provide suitable alternate work to the petitioner considering petitioners health and arrears of salary for the period of 21.12.2019 to 21.01.2020, 21.02.2020 to 30.04.2020, 20.08.2021 to 21.12.2021, 20.03.2022 to 21.06.2022, 21.08.2022 to 21.10.2022 and 01.01.2023 to 28.02.2023 along with 12 percent interest.

For Petitioner : Mr.N.Beulah John Selvaraj
For Respondents : Mr.R.Venkatasa Perumal for R1 & R2

ORDER

This Writ Petition has been filed seeking to direct the respondents to provide suitable alternate work to the petitioner considering petitioner's



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health and arrears of salary for the period of 21.12.2019 to 21.01.2020, 21.02.2020 to 30.04.2020, 20.08.2021 to 21.12.2021, 20.03.2022 to 21.06.2022, 21.08.2022 to 21.10.2022 and 01.01.2023 to 28.02.2023 along with 12 percent interest.

2. It is the grievance of the writ petitioner that he was originally appointed as a Driver in the respondent corporation during October 2013 as a temporary employee and thereafter, his service was regularised on 17.05.2016. While so, in the year October 2019, he suffered severe heart pain and was diagnosed with Atherosclerotic cardiovascular disease. He was referred to the Medical Madras Mission on 24.08.2021 and he was diagnosed with "Hypertrophic Obstructive Cardiomyopathy Asymmetrical Septal Hypertrophy" "Sam Present Mild LV Systolic Dysfunction Moderate Eccentric (HOCM). On 25.08.2021, he underwent a surgery in Extended Spetal Myectomy and he was advised not to involve in hard work. Hence, on 17.12.2021, the first respondent referred the petitioner to the Medical Board at Government Hospital at Villupuram and the said Medical Board sent a report stating that he is unfit for driving buses. Further, he was referred to Medical Board, Rajiv Gandhi Government General Hospital at Chennai by the first respondent and the Regional Medical Board of the Hospital has also given a report to



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the effect that there is a risk of sudden cardiac death and was advised to avoid driving public transport and consider for other light work.

Therefore, it is the contention that the respondent Corporation assigned temporary work to the petitioner for three months, i.e., from March to May 2023. Hence, the writ petition is filed seeking a direction to provide light job and also to pay arrears to the petitioner.

3. The counter has been filed to the effect that Corporation has considered and provided the light duty for 15 months as Security Guard and Cash Duty. Further, if the petitioner is allowed to do the light duty, the entire service of 21 years will be affected and as per the Disabilities Act, 1995, if any person having disability more than 40% may be considered. However, the Medical Board Report does not indicate the nature of percentage. Nevertheless, the petitioner is now adopting threatening attitude by sending Whatsapp messages.

4. Heard both sides and perused the materials placed on record. The grievance of the writ petitioner that he has suffered severe set back in heart and the doctors has also opined that he cannot perform driving and he should be assigned with light work. On perusal of the records, particularly, the opinion of the Medical Board of Rajiv Gandhi Government General Hospital at Chennai which shows that he is at the



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risk of sudden cardiac death and it is advised to avoid driving public transport and the Medical Board has found that the petitioner may be prone to sudden heart attack.

5. This Court is of the view that it is not advisable for the Corporation to engage the petitioner to drive the Heavy Motor Vehicles namely passenger bus. Such view of the matter as the petitioner has suffered such disease after joining other as a driver, the respondent Corporation has to explore other possibilities to post the petitioner in any other light job in the same pay scale.

6. Now, it is stated by the learned counsel for the respondent that the petitioner is given a light job as a security guard, cash auditing and petrol tank operator. However, the petitioner has refused to do the said work in the night time, whereas, the learned counsel for the petitioner submitted that the petitioner will work in the light job even in the night time without any resistance. Such statement is recorded.

7. Such view of the matter, the respondent Corporation shall assign the petitioner with light job as already provided to him and it is also made clear that since such arrangement has been made on the basis of the opinion of the Medical Board dated 28.12.2022 and the opinion is immediately after the



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surgery undergone by the petitioner. This Court is of the view that the said opinion cannot be taken as permanent one to post the petitioner in a light job, permanently. For assessing the petitioner's condition, the respondent Corporation shall assess the petitioner's medical condition once in a year and the petitioner shall appear before the Medical Board every year. Based on such Medical Board's opinion, further decisions whether or not the light job is required by the petitioner has to be decided. As the Medical Board has already given opinion on 28.12.2022 till December 2023, the petitioner shall be given a light job and the petitioner is required to appear before the Medical Board in the end of December 2023. Based on the Medical Board Report, the respondent shall decide the nature of job which may be assigned to the petitioner.

8. With the above directions, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. It is also made clear that if any arrears are withheld by the respondent corporation of all these days, the same shall be paid to the petitioner forthwith. No costs.

08.08.2023

dhk

Index:Yes/No, Internet: Yes/No

Neutral Citation:Yes/No



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N.SATHISH KUMAR, J.

dhk

To

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2.The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Region,
Villupuram – 605 602

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