



WEB COPY



W.P.No.29822 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.29822 of 2022

S.Lakshminarayanan

...Petitioner

Vs

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai.
2. The Director,
Rural Development and Panchayat Raj Department,
Ezhilagam,
Chennai.
3. The District Collector,
Villupuram District,
Villupuram.
4. The Block Development Officer,
Thiruvannainallur Panchayat Union,
Thiruvannainallur,
Villupuram District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the third respondent in connection with the impugned order passed by him in



W.P.No.29822 of 2022

Na.Ka.No.paA6/2285/2018 dated 30.06.2020 and to quash the same and further direct the respondents 1-3 to provide alternate employment to the petitioner as Junior Assistant by protecting his pay and other service conditions as per the provisions of the Persons with Disabilities (Equal Opportunities, protection of Right and Full participation) Act, 1995 within a reasonable time.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.V.P.R.Elamparithi
AGP

ORDER

Heard Mr.S.Sivakumar,, learned counsel for the petitioner and Mr.V.P.R.Elamparithi, learned Additional Government Pleader for the respondents.

2. The petitioner entered the service of the fourth respondent as Driver on 29.12.2008 and subsequently up-graded as Selection Driver in the year 2018. On 23.07.2017, the petitioner met with an accident, owing to which, he had sustained injuries in his right leg. Thereafter, when he was not in a position to perform his duty as driver, he was made to appear before the



W.P.No.29822 of 2022

Medical Board and through Report dated 21.05.2018, the Medical Board had opined that the petitioner is unfit to continue as driver. When the petitioner had given a representation on 06.02.2019, seeking for an alternate employment in the post of Junior Assistant, his representation came to be rejected through the impugned order dated 30.06.2020 by stating that as per G.O.86 (P&AR) Department dated 08.02.1996, if any Driver is declared unfit for continuance in the same post because of any ailment, he can be provided with alternative employment in posts like Helpers or Office Assistants and therefore, his request for Junior Assistant is not feasible. Challenging this order, the present writ petition has been filed.

3. Pending writ petition, this Court had passed an interim order on 16.11.2023 to ascertain as to whether the disability opined by the Medical Board in the year 2018 still continues and thereby had directed the petitioner to present himself before the Chaimran, Medical Board and Joint Director of Health Services, Villupuram District. Accordingly, the petitioner's medical condition was also examined by the Medical Board and through a Report dated 23.11.2023, the Medical Board had once again opined that the



W.P.No.29822 of 2022

petitioner is unfit for driving. The petitioner had also produced a copy of a Medical Certificate given by the Medical Board on 25.05.2018 which reads as follows:

“This is to certify that Thiru.S.Lakshminarayanan, driver, Block development office, Thiruvannainallur, Villupuram District had RTA 10 months back, diagnosed as closed Schatzha Type II, Tibial Platan Fracture Operatal and discharged. He has complaints pain even at rest, painful restricted range of movements in his right Knee, Considering his pain and sufferings, he is unfit to continue as driver, but he do alternative job in sitting position. He his fit enough to join/continue as writer or any kind of office work that minimize his pain and suffering of his Right Knee.”

*Joint Director of Health Services
Villupuram*

Encl:2 papers”

4. It is in view of this certificate as well as the petitioner's physical ailment of not being able to perform duties in a standing position, he had



W.P.No.29822 of 2022

sought for an alternate employment for Junior Assistant. The only impediment pointed out by the respondents is G.O.86 (P&AR) Department dated 08.02.1996 which orders for alternate employment to the post of Helpers and Office Assistants also.

5. When the Medical Board had clearly stated that the petitioner cannot perform the duties in a standing position, but only in sitting position, allotting an alternate employment in the post of Helper or Office Assistant, which may require extensive standing and moving duties, it would not be desirable to direct the respondents to grant him the job of Helper or Office Assistant in accordance with G.O.86 (P&AR) Department dated 08.02.1996

6. Thus, this Court is of the view that the respondents can be directed to assign any suitable job to the petitioner like that of Record Clerk, etc., in the same pay scale as that of driver, by relaxing G.O.86 (P&AR) Department dated 08.02.1996 .

7. In view of the above findings and taking into account of the



W.P.No.29822 of 2022

Medical Board Report furnished by the Medical Board, the order passed by the third respondent on 30.06.2020 is hereby quashed and consequently, there shall be a direction to the respondents 3 and 4 herein to forthwith allot an alternate employment to the petitioner herein in any post, which may require performing of duties in a sitting position only. Such order shall be passed within a period of one week from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed. No costs.

29.11.2023

Index:Yes
Speaking order
sr

To

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai.
2. The Director,
Rural Development and Panchayat Raj Department,
Ezhilagam,
Chennai.



W.P.No.29822 of 2022

WEB COPY

3. The District Collector,
Villupuram District,
Villupuram.
4. The Block Development Officer,
Thiruvennainallur Panchayat Union,
Thiruvennainallur,
Villupuram District



WEB COPY



W.P.No.29822 of 2022

M.S.RAMESH,J.

sr

W.P.No.29822 of 2022

29.11.2023