



W.P.(MD)No.6537 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.6537 of 2021
and
W.M.P.(MD)No.5090 of 2021**

S.Ganeshkumar

... Petitioner

Vs.

1. Tamil Nadu State Transport Corporation,
(Tirunelveli) Limited,
Represented by its Managing Director,
Tirunelveli District.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Nagarkovil Region, Nagarkovil,
Kanyakumari District - 629 702.
3. The Branch Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Kanyakumari Branch,
Kanyakumari District - 629 702.



W.P.(MD)No.6537 of 2021

4. The Branch Manager,
Tamil Nadu State Corporation (Tirunelveli) Limited,
Tiruvattaru Branch,
Kanyakumari District - 629 177.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the order passed by the second respondent in order No. 2580/A5/ThaApga(Thili)/Nagar/2020, dated 30.10.2020 and quash the same as illegal and consequently, direct the second respondent to provide alternate employment on permanent basis with pay protection, continuity of service by taking into consideration of his medical grounds.

For Petitioner : Ms.W.Pamelin

For Respondents : Mr.R.Rajmohan
Standing Counsel

O R D E R

This Writ Petition has been filed to call for the order passed by the second respondent in order No.2580/A5/ThaApga(Thili)/Nagar/2020, dated 30.10.2020 and quash the same as illegal and consequently, direct the second respondent to provide alternate employment to the petitioner on permanent basis with pay protection, continuity of service by taking into consideration of his medical grounds.



W.P.(MD)No.6537 of 2021

WEB COPY

2. The case of the petitioner is that he has joined as Driver in the second respondent Corporation from 22.08.2012 and his services were regularised on 16.02.2016. He was affected with colour blindness and hence, he made a representation to the authorities on 10.01.2020 to refer his case to the medical board to ascertain his physical fitness. But the respondents without adverting to the fact that he was medically not fit to continue the work, issued a transfer order transferring the petitioner to the fourth respondent Branch on 11.09.2020 and relieved him from service from 14.09.2020. Aggrieved over the same, he filed a Writ Petition in W.P.(MD)No.13515 of 2020 and the same is pending before this Court. Pending Writ Petition, he was served with a charge memo dated 30.10.2020 seeking explanation for unauthorised absence along with the rejection order for his representation seeking alternative employment vide order dated 30.10.2020. As against the charge memo, he preferred Writ Petition before this Court in W.P.(MD)No.2681 of 2021 and this Court by an order dated 12.02.2021 has dismissed the Writ Petition to challenge the order of rejection for alternative employment. Challenging the rejection order, the



W.P.(MD)No.6537 of 2021

present Writ Petition has been filed.

WEB COPY

3. The learned counsel appearing for the petitioner would submit that it would suffice, if this Court may issue a direction to the petitioner to submit a detail explanation to the respondents within a period of two weeks and after receipt of such explanation, the respondent Corporation may be directed to refer the petitioner's candidature to the approved Medical Officer for clinical examination whether the petitioner is suffering with colour blindness or not and thereafter pass appropriate orders based on the medical certificate issued by the Medical Officer.

4. The learned Standing Counsel appearing for the respondents has no serious objection for such an order being passed by this Court.

1. The petitioner claims that he is suffering with colour blindness and hence, he has not attended duty and for non attending duty, a charge memo was issued.

2.



W.P.(MD)No.6537 of 2021

WEB COPY

6. Considering the limited request made by the learned counsel appearing for the petitioner, this Court, without interfering with the order impugned in the Writ Petition, grants liberty to the petitioner to give explanation to the respondent Corporation within a period of two weeks from the date of receipt of a copy of this order and thereafter, the respondent Corporation is directed to refer the petitioner for clinical examination to the approved medical board to ascertain the fact whether he is suffering with colour blindness or not. After receiving such report from the approved medical board, the respondent Corporation may pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

12.01.2023
(2/2)

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji



W.P.(MD)No.6537 of 2021

WEB COPY

To

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli) Limited,
Tirunelveli District.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Nagarkovil Region, Nagarkovil,
Kanyakumari District - 629 702.
3. The Branch Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Kanyakumari Branch,
Kanyakumari District - 629 702.
4. The Branch Manager,
Tamil Nadu State Corporation (Tirunelveli) Limited,
Tiruvattaru Branch,
Kanyakumari District - 629 177.



WEB COPY



W.P.(MD)No.6537 of 2021

M.DHANDAPANI,J.

vji

**W.P.(MD)No.6537 of 2021
and
W.M.P.(MD)No.5090 of 2021**

**12.01.2023
(2/2)**