



W.P.(MD).No.16183 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.16183 of 2023

and

W.M.P(MD)No.13576 of 2023

P.Laskhmanaperumal

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye-Pass Road,
Madurai – 16.

2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye-Pass Road,
Madurai – 16.

3.The Dean,
Government Rajaji Hospital,
Madurai – 20.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to refer the petitioner to appear before the Medical Board of the third respondent to ascertain the suitability and fitness of the petitioner to do the work of Conductor and consequently, to direct the respondents 1 and 2 to provide alternative suitable duty with pay protection and



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continuity of service under Section 47 of the Persons with Disability Act, 1995.

For Petitioner : Mr.S.Govindan
For RR 1 & 2 : Mr.Gladson Michael Rajadurai
For R – 3 : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to refer the petitioner to appear before the Medical Board of the third respondent to ascertain the suitability and fitness of the petitioner to do the work of Conductor and consequently, to direct the respondents 1 and 2 to provide alternative suitable duty with pay protection and continuity of service under Section 47 of the Persons with Disability Act, 1995.

2.Heard Mr.S.Govindan, learned counsel appearing for the petitioner, Mr.Gladson Michael Rajadurai, learned counsel appearing for the respondents 1 and 2 and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the third respondent and perused the materials available on record.



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3.The petitioner was appointed as a Conductor on temporary basis by the order of the second respondent on 12.02.2009 and thereafter, he was confirmed in service on 08.02.2012. Presently, he is working as a Senior Grade Conductor. On 17.04.2022, after the closure of his duty as Conductor, while he was returning from the depot to his residence by a walk at about 10.30 p.m., a Honda Shine bearing Registration No.TN-58-U-6100, which came behind the petitioner in a rash and negligent manner hit him and as a consequence of which, his right leg got impacted and he was not able to walk. As a result of the said accident, the petitioner had undergone surgery on 18.04.2022 and he was discharged on 02.05.2022. After treatment, because of the insertion of the steel plate in his right leg, he was not able to walk properly and he is able to walk only with the support of walking stick. After that, the petitioner is continuously on medical leave and finally because of his physical inability, he submitted a detailed representation on 24.06.2023 to the respondents 1 and 2 seeking to refer him to appear before the Medical Board to ascertain the suitability of doing the job of the Conductor. That representation was not considered. Hence, the Writ Petition came to be filed.



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4.It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of India and direct them to consider the same within a stipulated time.

5.Considering the facts and circumstances of the case, this Court, without expressing any opinion with regard to the merits of the claim made in the Writ Petition, directs the respondents 1 and 2 to refer the petitioner to appear before the medical board of the third respondent to ascertain the suitability and fitness of the petitioner to do the work of Conductor and consequently, directing the respondents 1 and 2 to provide alternative suitable duty with pay protection and continuity of service under Section 47 of the Persons with Disability Act, 1995, if his suitability met with and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



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6.With the above direction, this Writ Petition is disposed of.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

20.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes
ps

To

- 1.The Managing Director,
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L.VICTORIA GOWRI, J.

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