



W.P.(MD).No.19426 of 2019

BEFORE THE MADU RAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.19426 of 2019

and

W.M.P.(MD).No.15876 of 2019

K.Radhakrishnan

... Petitioner

Vs.

- 1.The Additional Chief Secretary,
Transport Department,
Fort St.George,
Chennai – 09.
- 2.The Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Represented by its Managing Director,
No.5, Railway Station Road,
Kumbakonam.
- 3.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Karur Region,
Karur.
- 4.The Medical Board,
Represented by its Dean,
Regional Institute of Ophthalmology
and Government Ophthalmic Hospital,
Egmore,
Chennai.

... Respondents



W.P.(MD).No.19426 of 2019

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second and third respondents to grant an alternative employment to the petitioner as per Section 20 of the Rights of Persons with Disabilities Act, 2016 based on the medical report of the fourth respondent to be submitted based on the assessment conducted on the petitioner on 02.05.2019 and consequently direct the respondents to grant backwages, continuity of service, service weightage, review for the period of absences falling from 10.07.2019 till the grant of alternative employment is made by the respondents.

For Petitioner : Mr.S.Senthil

For R-1 and R-4 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-2 and R-3 : Mr.D.Sivaraman,
Standing Counsel.

ORDER

This Writ Petition is filed for Mandamus, directing the respondents to grant alternative employment under Disabilities Act.



W.P.(MD).No.19426 of 2019

WEB COP 2. The petitioner was serving as Conductor in the respondent Corporation. In the year 2016, the petitioner complained of color vision and he was granted alternative employment for a period of one year from 20.07.2017 onwards with a condition that his case will be reviewed after a year. In the review, it was deducted the petitioner has color blindness only for 30% and as per rule, any person is entitled to alternative employment, if he has vision for the color blindness for 40%. Hence, the respondents reverted the petitioner to Conductor post. Aggrieved over, the petitioner has filed this Writ Petition. This Court has granted interim order on 09.09.2019. Based on the interim order, the petitioner continued in the alternative employment and the petitioner is attaining superannuation in May 2023.

3. Therefore, this Court is inclined to protect the petitioner until his retirement. Therefore, the respondents shall not disturb the petitioner until his retirement. The petitioner is entitled to serve in the alternative employment until his retirement.



W.P.(MD).No.19426 of 2019

4. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

11.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

1.The Additional Chief Secretary,
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Chennai – 09.

2.The Managing Director,
The Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
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Kumbakonam.

3.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Karur Region,
Karur.

4.The Dean,
The Medical Board,
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W.P.(MD).No.19426 of 2019

S.SRIMATHY, J.

Nsr

W.P.(MD).No.19426 of 2019

11.01.2023