



W.P.(MD)No.7688 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.7688 of 2016

and

W.M.P(MD).Nos.6378 & 6379 of 2016

K.Boomirajan

... Petitioner

Vs.

1.Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Rep by its Managing Director,
Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Madurai Region,
Madurai.

3.Government Rajaji Hospital,
Rep by its Dean,
Madurai 625 020.

4.Government Eye Hospital,
Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records relating to the proceedings of the second respondent in Admn/A4/14078/2015 dated 19.03.2016 and quash the same.

For Petitioner :Mr.A.Rahul

For Respondents :Mr.J.Senthil Kumaraiah
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order directing the petitioner to appear before the medical board for the second time.

2. The case of the petitioner is that the petitioner joined the services of the first respondent Corporation as Driver in the year 2009. The petitioner acquired defective Colour Vision/Constricted field of Vision/Depressed Binocular Vision. Despite the same, he was not given alternative duty. Therefore, he approached this Court by way of filing W.P.(MD).No.4156 of 2013, seeking to direct the respondents to provide suitable alternative employment. This Court, vide order dated 18.03.2013, issued a direction to the first respondent to refer the petitioner



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to the Government Rajaji Hospital to ascertain the physical fitness to continue in the post of Driver and to provide alternative employment, if the Medical Board finds the petitioner not fit to do the work of Driver. Pursuant to the order of this Court, the petitioner was referred to the Medical Board. By certificate dated 25.03.2014, the Medical Board of the third respondent hospital declared that the petitioner was unfit for the post of Driver. Thereafter, he was offered alternative duty as a Non-ITI Helper at Head Office with pay protection and continuity of service. Thereafter, the impugned order dated 19.03.2016 was served upon the petitioner, wherein the second respondent has referred him to the Government Eye Hospital, Madurai, so as to ascertain the physical fitness and percentage of disability to work as a Conductor or Driver. Hence, the petitioner preferred the present writ petition.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The contention of the petitioner is that the first Medical Board report was undated by the respondents. Whenever a second or third reference to the Medical Board is made, the respondents ought to have followed Rules 575 and 576 of the



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Tamil Nadu Medical Board. The respondents ought to have obtained permission from the Government to make the second reference to the Medical Board. In the present case, the respondents have not obtained any permission from the Government to refer the petitioner to the Medical Board for the second time.

5. Therefore, this Court directs the respondents to obtain prior permission from the Government, if so advised. Thereafter, if the Government grants permission to refer the petitioner to the Medical Board, the respondents shall do the same.

6. The present writ petition stands disposed of on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

26.04.2023

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

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To

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2.The General Manager,
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