



W.P.(MD).No.8227 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.8227 of 2016
and
W.M.P.(MD).No.6690 of 2016**

S.Murugesan

... Petitioner

Vs.

- 1.The Management,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Represented by its Managing Director,
Bye pass Road,
Madurai.
- 2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Madurai Region,
Bye pass Road,
Madurai.
- 3.The Branch Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Ponmeni Branch,
Madurai.
- 4.The Dean,
Government Rajaji Hospital,
Madurai.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent in Ref:Admn/A4/11238/2015, dated 22.03.2016, quash the same and consequently direct the respondents to provide alternative light duty to the Petitioner on permanent basis in the Ponmeni branch of the 1st respondent Corporation with pay protection, other attendant benefits, continuity of service within the time limit that may be stipulated by this Court.

For Petitioners : Mr.G.M.Xavier

For R-1 to R-3 : Mr.A.P.Muthupandian

For R-4 : Mr.M.Lingadurai,
Special Government Pleader.

ORDER

This Writ Petition is filed challenging the impugned order dated 22.03.2016 with consequential relief to provide alternative light duty to the petitioner on permanent basis in the Ponmeni Branch with pay protection, other benefits and continuity of service.

2. The petitioner joined the first respondent Corporation with effect from 04.06.1999. The petitioner had suffered from tonic clonic convulsions since



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childhood and he was admitted as inpatient in the fourth respondent Hospital on 13.03.2007. The petitioner was also diagnosed with complex partial seizures and he was discharged from the Hospital on 20.03.2007. The Doctors advised the petitioner to carry on light duty. Based on the medical board report, he was not fit for the post of Driver. The petitioner has submitted several representations, since the same was not considered, the petitioner filed W.P.(MD)No.8060 of 2009 seeking for a direction to provide suitable alternative employment to the petitioner. The respondents have referred the petitioner to the Regional Medical Board of Rajaji Government Hospital, Madurai. The respondents after considering the report of the Regional Medical Board had provided light duty as Non-ITI Helper vide proceedings dated 18.10.2011. The petitioner was continuing in the service from 2011 until 2016. Suddenly, the respondents vide proceedings dated 22.03.2016, have referred the petitioner again to the Medical Board. The contention of the petitioner is that if the petitioner is again referred to Medical Board, he has to spend Rs.10,000/- towards bed charges and medical expenses. Moreover, the respondents have not invoked Rule 575 and 576 of Medical Board Rules, before referring the petitioner second time for medical examination. As per the said rules, the respondents ought to obtain clearance from the Government. The respondents have not referred to any such proceedings in the impugned order.



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3. Therefore, this Court is of the considered opinion that without invoking the said rules, the respondents have issued the impugned order and referred the petitioner for the second time to the Medical Board which cannot be sustained. This issue was raised in several cases and this Court has repeatedly held the second reference to the Medical Board cannot be sustained, unless the respondents obtained prior permission from the Government under Rule 575 and 576 of Medical Board Rules. Therefore, this Court is inclined to allow this Writ Petition. The impugned order is quashed. The respondents are directed to allow the petitioner to continue in the alternative service.

4. In view of the above, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2023

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



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S.SRIMATHY, J.

Nsr

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