



W.P.(MD).No.25232 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2023

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.25232 of 2023

and

W.M.P(MD)No.21419 of 2023

R.Kannan

... Petitioner

Vs.

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

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

3.The Branch Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Thanjavur Town II Branch,
Thanjavur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to provide the petitioner alternative light duty on permanent basis with pay



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protection, continuity of service in terms of Section 20(4) of Rights of Person Disabilities Act, 2016 by changing the Name/Nomenclature of the job of Driver which hither to the petitioner had been doing before alternative employment was offered to him and accordingly place him in the alternative employment without any break and continue to pay the salary to the petitioner with arrears of salary from 04.09.2023.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.K.Ramaiah
Standing Counsel

ORDER

The present writ petition has been filed by a Driver, who was working in the respondent Transport Corporation seeking a Mandamus directing his employer to provide alternative employment due to his eye defect by changing the nomenclature of the job as per the alternative employment provided to him and with pay protection.

2. According to the learned Counsel appearing for the petitioner, the petitioner joined as a Driver in the respondent Corporation on 09.08.2007 and he acquired vision disability in the year 2020 and therefore, he can no longer continue to be a Driver. The petitioner has also enclosed the medical certificate



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issued by Rajiv Gandhi Government General Hospital at Chennai to the effect that he is unfit to drive.

3. According to the learned Counsel appearing for the petitioner, the respondents have suddenly stopped him from attending duty with effect from 04.09.2023 onwards without assigning any reason or without passing any orders. The petitioner apprehends that he will be out of employment without any orders being passed by the respondent authorities. Hence, the present writ petition.

4. In view of the medical certificate issued by the Medical Board of Rajiv Gandhi Government General Hospital, Chennai, this Court is of the opinion that he is not fit to be a Driver. Therefore, in view of Section 20(4) of the Rights of Person with Disabilities Act, 2016, the respondent Corporation cannot dispense with or reduce the rank of the writ petitioner in view of the fact that he had acquired disability during his service. That apart, the employer is expected to shift him to some other post with the same pay scales and service benefits.



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5. On instructions, the learned Standing Counsel appearing for the respondents submits that the post of Security Guard at Kumbakonam Corporate Office is vacant, in which there is no scope for night duty. Hence, the respondents herein are directed to appoint the petitioner in the said post.

6. In view of the above said facts, this Court passes the following order:

"(i) The respondents are directed to appoint the petitioner as a Security Guard with day duty at Kumbakonam Corporate Office with pay protection and all other benefits.

(ii) The nomenclature of the petitioner shall be altered from Driver to Security Guard.

(iii) The respondents are directed to continue to pay the salary of the petitioner which he was receiving in the capacity as a Driver.

(iv) According to the petitioner, he was prevented from attending duty from 04.09.2023 onwards. The said period from 04.09.2023 shall be treated as 'duty period' with all attendance benefits."



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7. This writ petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

21.11.2023

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

To

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