



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 WRIT PETITION NO. 6359 OF 2024

GOPAL BHIKA PATIL

VERSUS

**MAHARASHTRA STATE ROAD TRANSPORT
CORPORATION, THRU ITS DIVISIONAL CONTROLLER**

....

Mr S. A. Nerkar, Advocate for Petitioner;

Mr A. B. Girase, G.P. for Respondent No.1/State

Mr D. S. Bagul, Advocate for Respondent No.2

CORAM : RAVINDRA V. GHUGE

AND

Y. G. KHOBRADE, JJ.

DATE : 16th July, 2024

PER COURT:

1. Leave to add the 'State of Maharashtra, through the Secretary, Health Department', as Respondent No.1. The Maharashtra State Road Transport Corporation (MSRTC), be ascribed as Respondent No.2.

2. Issue notice to the Respondents, returnable on 12/08/2024. The learned Government Pleader waives service of notice on behalf of Respondent No.1. Shri. Bagul, the learned

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Advocate, who has appeared on Email notice by the Petitioner, waives service of notice on behalf of Respondent No.2.

3. The Petitioner has put forth prayer clauses (i), (ii) and (iii), which read as under :-

“i) To declare that the inaction of the Respondent in not providing alternative employment as per Circular No. 2084, dated 03rd June, 2022 (ANNEXURE-P-27-B) is in contravention/violation of Sec. 20(4) of The Rights of Persons with Disabilities Act, 2016,

ii) To issue appropriate Writ against the Respondent and direct him to provide alternate suitable employment in equivalent post and if such post is not available then Petitioner be adjusted in a supernumerary post and direct the Respondent to pay monthly salary wef. 25.03.2023 till alternate employment is provided either in equivalent post or supernumerary post,

iii) To saddle heavy cost on the Respondent as a penalty for deliberate and wilful disobedience of Rights of Persons with Disabilities Act, 2016 again and again inspite of previous penalties inflicted by this Hon'ble High Court in other similar matters and also in accordance with Circular dated 03rd June, 2022 (ANNEXURE- P-27-B).”

4. After hearing this matter, we find a peculiar situation that emerges from the record as regards various medical

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certificates acquired by the Petitioner in order to project that, he is unfit to work as a 'Bus Conductor' and should be posted as a 'Peon' or 'Chaprasi'. The Petitioner narrates that, on 25/03/2023, while on duty in a Bus travelling from Jalgaon to Dhanora, bearing Registration No.MH-20-BL-0764, the Bus Driver suddenly applied brakes near Mahabal, Sambhajinagar. The conductor fell inside the Bus because of sudden braking. He claims that, he suffered some injury to his leg and hand. He was taken to the General Hospital by the Driver. There were 30 passengers in the bus and none were injured.

5. In the above backdrop, the Petitioner addressed a communication, dated 27/03/2023, to the Depot Manager, Jalgaon Depot, seeking leave. The leave was sanctioned. One medical certificate dated 29/03/2023, indicates that the Petitioner was suffering from 'Elbow Soft Tissue Injury' and 'concussion'. Thereafter, he again sought leave by tendering a medical certificate acquired from the Ekvira Hospital, Jalgaon, dated 04/05/2023, in which it is stated that, he is suffering from 'Hypertension' and is advised rest. Yet, one more medical

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certificate is produced, dated 05/05/2023, from the Casualty Medical Officer, Government Medical College, indicating that he has 'Hypertension' and 'Angina Pain' and advised bed rest for one month.

6. Thereafter, the Petitioner kept on moving leave applications, seeking leave by narrating various health problems. He also has complained of back pain. Thereafter, he received a Disability Certificate, dated 03/10/2023, from the Government Medical College, Jalgaon, indicating that he has a 'Locomotor Disability', and his case is an 'Operated case of Left Radius/ULNA, Shaft Fracture with Forearm and Elbow Stiffness with Grip Weakness with Left Upper Limb Radiculopathy'. The certificate indicates that, he has 42% Temporary Disability in relation to his Cervical Spine and Left Upper Limb, and that, such certificate would last for one year.

7. On 12/12/2023, the District Civil Surgeon, Jalgaon, issued a certificate indicating a new illness, which cannot be read and is illegible. Even the learned Advocate for the Petitioner cannot read it.

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8. Thereafter, within nine days, he obtained a medical certificate dated 21/12/2023, from the Medical Board of the Government Medical College and Hospital, Jalgaon, declaring him to be unfit as a 'Bus Conductor' and fit to be a 'Chaprasi'. No illness was diagnosed in the said medical certificate, which is before us at Page No.64 of the Petition paper book. Three months later, he acquired one more certificate dated 27/03/2024, from the Sub District Hospital, Jamner, Dist. Jalgaon, repeating the contents of the certificate issued on 03/10/2023, which was to last for one year.

9. The above various medical certificates clearly indicate that the Petitioner is being granted certificates, which mention different illness. Due to sudden braking of the Bus, and without suffering any external injury, one medical certificate states that, he has only suffered Concussion and Tissue Injury. One certificate indicates that he has spine pain. One certificate indicates that he has 'Hypertension' and 'Angina Pain'.

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10. The learned Advocate for the MSRTC submits that, though the MSRTC, out of sympathy, has given a soft posting to the Petitioner and as per his request, he is no longer deployed as 'Bus Conductor', this entire issue needs to be investigated. The MSRTC is contemplating referring the case of the Petitioner for thorough medical examination before the Medical Board of the Sir J.J. Group Hospital, Mumbai. The learned Advocate for the Petitioner submits that, the Petitioner is willing to subject himself to the Medical examination before the Medical Board of the Sir J. J. Group of Hospital, Mumbai, if this Court directs him to undergo such examination.

11. In view of the above, we direct the Respondent/MSRTC to issue a reference letter to the Petitioner for referring his case for medical examination to the Medical Board of the Sir J.J. Hospital and schedule the examination on 01/08/2024. For the assistance of the Petitioner, a responsible Officer working under the Depot Manager would accompany the Petitioner.

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12. We request the Dean of the Sir J. J. Hospital, Mumbai, to prepare the medical report after thorough medical examination of the Petitioner, and submit the said report to the office of the Government Pleader of the Bombay High Court, Bench at Aurangabad, in a sealed envelope. The said medical report would be placed before this Court on 12/08/2024. We make it clear that, if the Petitioner, for any reason or on any pretext avoids or dodges the medical examination, we would consider the same seriously and dismiss this Petition.

13. We request the learned Government Pleader to place a copy of this order before the Dean of the Sir J. J. Hospital, Mumbai, expeditiously.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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