



W.P.No.27359 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.27359 of 2015

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W.M.P. No. 37998 of 2017

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M.P.Nos. 1 & 2 of 2015

M.Purushothaman

...Petitioner

Vs.

1.Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Rep. By its Managing Director,
Vazhuthareddy, Salamedu,
Villupuram.

2.The General Manager,
Tamil Nadu State Transport Corp.
(Villupuram) Ltd.,
Cuddalore Region,
Cuddalore – 2.

3.Stanley Medical College and
Hospital, rep. by its Dean,
305, OSH Road,
Royapuram, Chennai – 1.

...Respondents



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Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus, after calling for the records pertaining to the order dated 12.01.2015 in letter No.560/Pova.1/TNSTC (Vizhu)/KaMa/2015, the order dated 21.04.2015 in letter KaKu No.314/Ni2/TNSTC (Vizhu)/KaMa/15 issued by the 2nd respondent, quash the same and consequently direct the respondents 1 and 2 to provide the petitioner forthwith suitable alternative employment / light job in the office, with continuity of service, pay protection, arrears and all other service and attendant benefits with effect from 15.09.2014, together with interest at the rate of 12% per annum, award costs.

For Petitioner : M/s. V.Porkodi
for Mr. V.Ajoy Khose

For Respondents : Mr. M.Aswin
1 and 2

For Respondent 3: Mr. E.Sndaram
Government Advocate.



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ORDER

The Writ Petition has been filed challenging the rejection of the petitioner's request for offering an alternate employment.

2. The petitioner was inducted as a conductor in the 1st respondent Corporation in the year 1996 and was made permanent with effect from 21.09.1998. He was designated as a Senior Conductor and Selection Grade conductor on completion of 6 years and 14 years respectively on the higher scale of pay and was also given two reviews.

3. The petitioner while working in Cuddalore Depot No.2 suffered severe pain in his spinal cord and had to undergo surgery to correct his disk prolapse at L4 and L5 on 11.04.2002. Since he had undergone the above surgery and was continuously taking treatment and medicines, the petitioner had sought for alternate employment. In



fact on 14.07.2013, when the petitioner was on duty due to the pain in his spinal cord his right leg become numb and dysfunctional and he had to be rushed to a private hospital in Cuddalore. He was thereafter admitted in MIOT Hospital, Chennai on 15.07.2013 and had undergone yet another surgery on 22.07.2013 and was discharged on 29.07.2013.

4. The petitioner would submit that the Doctor had advised him to take complete bed rest and also to undertake light duty. Therefore, the petitioner had made a representation on 06.11.2013 to the 1st respondent to give him a light duty. However, the request was not considered and he was told that the request can be granted only if the 2nd respondent issues a letter. Accordingly, on instructions of the 2nd respondent, the petitioner was given the work of maintaining accounts of the receipt and issue a diesel at the diesel bunk. The said work was given to the petitioner upto 14.09.2014 and after 14.09.2014 no work was given to the petitioner. Since the respondent was not giving him light work the petitioner was constrained to take breaks on account of the pain that he had suffered.



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5. Thereafter, on a representation dated 07.10.2014 issued by the petitioner, the 2nd respondent by order dated 16.10.2014 had referred the petitioner to appear before the Medical Board at the Rajiv Gandhi Government Hospital, Chennai.

6. The petitioner would submit that the term medical board was a misnomer as it was only one Doctor who was present and even this Doctor did not physically assess him. Further, the petitioner was not given the report. However, the 2nd respondent by order dated 21.04.2015 and 20.05.2015 had rejected the petitioner's request for alternative employment and while rejecting the said request, the 2nd respondent had referred to the report of the medical board which had stated that the petitioner was fit to continue his duty as a Conductor. The 2nd respondent had also directed the petitioner to present himself for duty as a conductor. Therefore, the petitioner has moved the above Writ Petition.



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7. Pending this proceedings, this Court had directed the petitioner to appear before the Medical Board and the Medical Board has now opined that *"He is unfit for conductor Job. Advised light duty"*. This report has been given on 22.03.2022. This clearly proves that the petitioner has to necessarily be given an alternate employment. It is also brought to the notice of this Court that by an order dated 15.03.2024, despite coming to know about the subsequent medical report, the respondents once again insist on the petitioner joining duty as a conductor. The above action clearly displays an element of bias on the part of the respondents. Despite producing the report of the medical board which clearly opines that the petitioner is unfit for the work as a conductor, the 1st and 2nd respondents have not chosen to grant him alternate employment and on the contrary is insisting upon him to continue in his earlier duty. This action is without any legal basis and is also highly arbitrary.



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8. Therefore, the Writ Petition is allowed. The 1st and 2nd respondents are directed to provide the petitioner forthwith suitable alternative employment / light job in the office, with continuity of service, pay protection, arrears and all other service and attendant benefits with effect from 15.09.2014, together with interest at the rate of 12% per annum. Consequently, the connected miscellaneous petitions are closed. No costs.

20.06.2024

Index : Yes/No
Internet : Yes/No
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To

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P.T. ASHA, J,

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