



WEB COPY



W.P.No.8751 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8751 of 2024

T.Mani

...Petitioner

-Vs-

1.Metropolitan Transport Corporation
(Chennai) Ltd, rep. by its
Managing Director
Pallavan Salai, Chennai-2.

2.The General Manager
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Salai, Chennai-2.

3.The Senior Deputy Manager (HR)
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Salai, Chennai-2.

4.The Branch Manager
Metropolitan Transport Corporation
(Chennai) Ltd.,
Ambathur Depot
Chennai-58.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to provide him suitable alternative employment on permanent basis is commensurate with petitioner's health condition with continuity of service, pay protection, back



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wages and other service benefits and to treat the entire period from 21.05.2018 till date during which he was not given light duty as duty with pay for all purposes, award costs.

For Petitioner : Mr.S.Sakthivel

For Respondents : Mr.A.Vinothraj
Standing Counsel

ORDER

This writ petition has been filed for a direction directing the respondents to provide suitable alternative employment on permanent basis due to his health condition.

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

3. The petitioner had joined as a Driver in the respondent Corporation. Thereafter, he was made permanent. While being so, in the month of April 2018, he was assigned duty from Ambathur Estate to Poonamallee by the respondent Corporation. He suffered with chest pain and he was immediately admitted in a private hospital for treatment. He had undergone Angiogram. Later he was discharged from the hospital on 25.06.2018. The Medical Board advised to provide light duty to the petitioner.



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Therefore, the petitioner submitted a representation to the first respondent seeking assignment of light duty. On receipt of the said representation, the petitioner was subjected for medical examination before the Dean, Regional Medical Council, Rajiv Gandhi Government General Hospital, Chennai.

4. Once again the petitioner suffered with chest pain and admitted in a private hospital. He had undergone Coronary Angiogram and discharged from the hospital on 30.01.2019. Considering the health condition of the petitioner, the first respondent assigned light duty for two months as Time Keeper in Ambattur Depot. However, he suffered from some cardiac issue and as such, the petitioner once again submitted representation for light duty. Therefore, the petitioner was referred before the Medical Board and as per the report dated 21.02.2020, it is stated that the petitioner is unfit for driver job. On the basis of the report, the petitioner submitted representation to provide light duty. Though the petitioner was provided with light duty only for limited period, the other period in which the petitioner was not assigned any duty was treated as absent. Once again the petitioner was subjected for medical examination before the Medical Board on 14.06.2023. As per the medical report, the petitioner is found to be not fit for driver duty and can be considered for light duty.

5. The learned counsel appearing for the petitioner relied upon



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the Judgment of the Hon'ble Supreme Court of India in the case of Kunal Singh

Vs. Union of India & anr in Appeal (c) No.1789 of 2000 dated 13.02.2003, in

which the Hon'ble Supreme Court of India held as follows :

“..... Chapter VI of the Act deals with employment relating to persons with disabilities, who are yet to secure employment. Section 47, which falls in Chapter VIII, deals with an employee, who is already in service and acquires a disability during his service. It must be borne in mind that Section 2 of the Act has given distinct and different definitions of “disability” and “person with disability”. It is well settled that in the same enactment if two distinct definitions are given defining a word/expression, they must be understood accordingly in terms of the definition. It must be remembered that person does not acquire or suffer disability by choice. An employee, who acquires disability during his service, is sought to be protected under Section 47 of the Act specifically. Such employee, acquiring disability, if not protected, would not only suffer himself, but possibly all those who depend on him would also suffer. The very frame and contents of Section 47 clearly indicate its mandatory nature”.

6. Thus, it is clear that a person does not acquire or suffer disability by choice. An employee, who acquires disability during his service, is sought to be protected under Section 47 of the Disabilities Act. Therefore, the first



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respondent ought to have assigned light duty considering the health condition of the petitioner.

7. In view of the above, the first respondent is directed to assign light duty to the petitioner for a period of one year. After completion of one year, the petitioner shall be subjected for medical examination and as per the report, the petitioner shall be provided duty.

8. With the above directions, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

28.03.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
Lpp

To

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G.K.ILANTHIRAIYAN. J.

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