



W.P.No.9005 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9005 of 2024

S.Sathiyamoorthy

.. Petitioner

Vs.

The Managing Director,
Tamilnadu State Transport Corporation
Limited, Villupuram Zone,
Villupuram-605602.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus by directing the respondent to consider the petitioner representation letter dated on 23.08.2023 to provide an alternative employment to the petitioner based on the Regional Medical Board Examination Report on 18.05.2021.

For the Petitioner : Mr.G.Kanagaraj

For Respondent : Mr.R.Venkatesa Perumal,
standing counsel for TSTC



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(Villupuram)

ORDER

This Writ Petition is filed to direct the respondent to consider the petitioner's representation letter dated 23.08.2023 to provide alternative employment to the petitioner based on the Regional Medical Board Examination Report on 18.05.2021.

2. The Writ Petitioner is a driver in the respondent's corporation. While so, when he was on duty on 24.08.2012, he met with an accident. Since there was a head injury leading to blood clots, and from then on, he is not well and is taking protracted treatment. This has resulted in memory impairment with respect to the petitioner. It is also said that the petitioner's condition is improving. The respondent has not provided any light duty to the petitioner. Therefore, the petitioner has filed a Writ Petition seeking alternate employment.



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3. The Writ Petition is resisted by the respondent. In paragraph No. 7 of the counter affidavit, it is stated as follows:

"7) I state that the petitioner presented before the Medical Board on 15.03.2024 at Rajiv Gandhi Government General Hospital, Chennai and was certified as follows:-

"RGGGH was referred to Neurologist and Psychiatrist (GIRM KK.Nagar) and psychologist at IMH, he has mild intellectual impairment with a locomotor disability of 15% (Fifteen percent), he is unfit for a driver job, he may be considered for an alternate job, light duty, review after one year"

3.1. In paragraph No.11 of the counter affidavit, it is again averred as follows:

"11) I humbly submit that the alternate job as light duty like Security section, Cash and Ticket section, Diesel refilling section, etc. requires memory power to perform duties without errors and mistakes, hence the management in a position that the management is not able to give an alternate job to the petitioner, since the petitioner admits that having lost his memory power."



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3.2. It is further contended in paragraph No.12 as follows:

"12) I humbly submit that the management is in a situation that the management is not able to give him an alternate job at present and is assured that eligible leave as in credit in his leave account may be sanctioned to him till he gets treatment for his memory loss and obtains a fitness certificate regarding his memory power; then the alternate job may be considered however if the petitioner is deemed to have suffered more than 40% permanent disability based on Physical condition and if the Medical Board confirms this recommendation and finds him unfit for driver duty."

4. Heard Mr.G.Kanagaraj, learned counsel for the petitioner and Mr. R.Venkatesa Perumal, learned standing counsel for TSTC(Villupuram), respondent's corporation.

5. Mr.C.Kanagaraj, learned counsel for the petitioner, would submit that the petitioner's condition has very much improved. As a matter of fact, the present condition is only diagnosed as a mild intellectual impairment with a locomotor disability of 15% (Fifteen percent) and as such, the



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petitioner is very much fit for a lighter job; most specifically, he can be offered any job in the security section where there is no handling of cash, etc., and thereby the apprehension of the respondents can also be alleviated.

6. Per contra, learned standing counsel appearing for the respondent corporation would submit that since this is the case of memory impairment. The corporation is not in a position to give any employment to the petitioner, but on the other hand, they are willing to treat the period as eligible leave, and if only the petitioner gets better, he can be given employment.

7. Considered the rival submissions made on either side.

8. It is only appropriate for the medical board, which is the expert, to decide whether the petitioner would be fit for the post of driver or of any other lighter job or whether he would not be fit for any work in the respondent's corporation at all. When the respondents corporation has



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referred the petitioner to the medical board and its finding dated 15.03.2024, the medical board has opined that the petitioner has mild intellectual impairment with a locomotor disability of 15% and that he is unfit for a driver job, he may be considered for an alternate job, light duty, and has directed the review after one year. Then certainly the petitioner can be employed in light duty, more specifically, as contended by the learned counsel for the petitioner in the security section.

9. In that view of the matter, this Writ Petition is disposed of on the following terms:

(i) The respondent shall consider and award light duty for the petitioner in posts such as security sections or any other posts which they consider appropriate within a period of four weeks from the date of receipt of a copy of this order.

(ii) Needless to mention, the petitioner shall appear for the review in the month of March 2025, and depending on the



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fresh report, the respondent shall consider his work allotment once again.

(ii) No costs. Consequently, the connected miscellaneous petition is also closed, if any.

05.06.2024

Neutral Citation : No

jrs

To

The Managing Director,
Tamilnadu State Transport Corporation
Limited, Villupuram Zone,
Villupuram-605602.



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D.BHARATHA CHAKRAVARTHY, J.

jrs

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