



WEB COPY



W.P.No.12645 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.12645 of 2021

T.Murugavel

... Petitioner

Vs.

The Managing Director,
Metropolitan Transport
Corporation (Chennai) Ltd.,
Pallavan House, Pallavan Salai,
Chennai - 600 002.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondent Management to provide alternate employment with pay protection and to provide duty without break to the petitioner as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.C.Gowthamaraj
Standing Counsel for MTC



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ORDER

This Writ Petition is filed seeking a direction to the Respondent Management to provide alternate employment with pay protection and to provide duty without break to the petitioner in view of Section 47 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. The petitioner is working as a driver in the respondent Corporation. While he was driving a bus on 09.07.2006 in Veppampattu, he met with an accident and due to which he sustained injuries and got admitted in a nearby hospital wherein he underwent Hip Bone operation on 26.07.2016. Thereafter he was not able to walk or stand for a long time. Hence, the petitioner was given with light duty at Vadapalani Depot as time Keeper and he worked till December 2017. Thereafter he was sent to Medical Board on three occasions viz., 05.01.2018, 13.09.2019 and 22.01.2021 and on all the three occasions, it was certified that he is not fit to function as a driver and the Medical Board recommended for light duty to the petitioner. However, the petitioner has been given with light duty only for a short period. Hence, the petitioner made a representation to the



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respondent on 20.03.2021, seeking alternative employment with pay protection and the same has not been considered yet. Therefore, the petitioner has filed this Writ petition seeking a direction to the Respondent Management to provide alternate employment with pay protection as per Section 47 of Persons with Disabilities (Equal opportunities, protection of Rights and Full participation) Act, 1995.

3. According to the petitioner, if the employee acquired disability while in service, he can be shifted to the suitable post with same pay scale and service benefits as per Section Section 47 of Persons with Disabilities (Equal opportunities, protection of Rights and Full participation) Act, 1995. Section 47 of Persons with Disabilities (Equal opportunities, protection of Rights and Full participation) Act, 1995 is extracted hereunder for better appreciation:

47. Non-discrimination in Government employment .-

(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some



other post with the same pay scale and service benefits:Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2)No promotion shall be denied to a person merely on the ground of his disability:Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

4. Even if the person appointed in the alternative suitable post after acquiring disability, such posts can be kept as a super numeric post till the suitable posts is available or the person attains the age of superannuation, which ever is earlier.

5. The learned counsel for the respondent submitted that the petitioner's representation is under consideration and orders will be passed on merits.

6. In view of the above submission, this Writ Petition is disposed of. The respondent is directed to consider the representation of the petitioner,



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dated 20.03.2021 at the earliest and pass appropriate orders on merits and in accordance with law, by taking into consideration of Section 47 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, within a period of six weeks from the date of receipt of a copy of this order. No costs.

15.03.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
vum

To:

The Managing Director,
Metropolitan Transport
Corporation (Chennai) Ltd.,
Pallavan House, Pallavan Salai,
Chennai - 600 002.

R.N.MANJULA ,J.

vum



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