



WEB COPY

W.P.No.14016 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.14016 of 2021 and
W.M.P.No.14885 of 2021

R.Ezhilan

... Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Cuddalore, Cuddalore District.

2.The Branch Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Virudhachallam Depot, Cuddalore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to engage the petitioner in any of the suitable alternate post equivalent to the category of driver, revise the pay and allowance from the year 2015, pay the arrears and other allowance along with interest at the rate of 12% per annum.

For Petitioner : M/s.M.Sreela

For Respondents : Mrs.R.Pavithra, Standing Counsel



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ORDER

This Writ Petition has been filed seeking a direction to the respondents to engage the petitioner in any of a suitable alternate post equivalent to the category of driver, revise the pay and allowance from the year 2015, pay the arrears and other allowance along with interest at the rate of 12% per annum.

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

3. The learned counsel for the petitioner submitted that the petitioner was working as driver in the respondents Corporation and he met with an accident on 16.04.2015 and sustained grievous head injuries. After prolonged treatment, the petitioner has recovered to some extent and not completely. The head injury caused severe neurological problems including sudden giddiness and blank outs. After recovery from the injuries, he reported back to the duty, whereas the respondents had insisted the petitioner to continue to do the driver duty. Hence, the petitioner requested the respondents that as per the provision of Persons with Disabilities (Equal Opportunities Protection of Right and Full Participation) Act, 1995, he must be considered for an



alternate employment. In that regard, the first respondent by his letter dated 28.01.2016, directed the Joint Director, Government General Hospital, Cuddalore to form a Special Medical Board to examine the petitioner and to assess the percentage of disability. The Medical Board by their letter dated 29.11.2017 had recommended the petitioner to a qualified Neurologist for medical examination. Then, the petitioner was referred to Rajiv Gandhi Government General Hospital, Chennai and relevant tests had been taken on various dates. In the meantime, the respondents insisted the petitioner to do driver duty, but however he was not paid regular salary, increments and other benefits and the same were also not periodically revised. The Medical Board, Rajiv Gandhi Government General Hospital, Chennai, continued the investigation more than a year. In such circumstances, the petitioner gave a representation dated 10.03.2018 along with a medical certificate issued by the said Board to the first respondent seeking for suitable alternate employment. Considering the same, the first respondent passed an order on 16.03.2018 directing the petitioner to perform bus stand duty. Thereafter, on 29.02.2020, the first respondent directed the petitioner to appear before the Special Committee constituted under the Persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995 for



submitting his grievance. The petitioner appeared before the Committee on 05.03.2020 and explained about his medical issues and thereafter, the said Committee instructed the first respondent to provide him an alternate employment. The petitioner was engaged as Time Keeper for about three months. All of a sudden, the respondents without any reason, once again discontinued the petitioner from service. Since the petitioner gave another representation dated 23.12.2020, no action was taken on the same. Hence, the petitioner has approached this Court by way of this petition seeking a direction to the respondents to engage him in any suitable alternate post equivalent to the category of driver.

4. The learned Standing Counsel appearing for the respondents submitted that the petitioner was referred for reassessment before the Medical Board attached to Rajiv Gandhi Government General Hospital, Chennai on 09.02.2021 and the same was also communicated to the petitioner. But till date, the respondents have not received any report from the Medical Board. Based on the report and specified disability only, he shall be provided with alternate employment. The respondents have paid the salary to him for the days he worked and for the unauthorized leave he has taken, the respondents



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have not initiated any disciplinary proceedings considering the disablement of the petitioner instead treated his leave as absent and salary was paid to him under the concept of “No Work No Pay”. The petitioner has provided with light duty and he is not liable for any monetary benefits as claimed and hence, this petition is liable to be dismissed.

5. In view of the submissions made by the learned counsel on either side and on perusal of the records, this Court finds that the Medical Board was constituted in the year 2018 and now we are in the year 2024 and hence, it would be appropriate to pass orders to the effect that a fresh Medical Board is to be constituted for examination of the petitioner. On the report of the Medical Board, the respondents shall give suitable employment to the petitioner as per the disability mentioned in the report of the Medical Board. It is the discretion of the respondents to accommodate the petitioner as per the medical report/ assessment and also that it is the considered opinion of the Court to refrain from passing any order for accommodating the petitioner in a particular post.



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6. As discussed above, the Medical Board, be constituted by the Dean, Rajiv Gandhi Government General Hospital, Chennai, within a period of one month from the date of receipt of a copy of this order and the petitioner shall appear before the Medical Board for assessment. On receipt of the assessment report from the Medical Board, it is for the respondents' Corporation to accommodate the petitioner on the basis of the recommendation of the Board in an alternate employment within a period of two months therefrom.

7. With these observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

12.09.2024

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Index : Yes / No

Speaking order / Non-speaking order

To

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VIVEK KUMAR SINGH, J.

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