



WEB COPY



W.A.No.3591 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2024

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.3591 of 2023
and
C.M.P.No.29442 of 2023

1.The Principal Secretary,
Transport Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore – 641 043.

3.The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
Erode Region,
Chennimalai Road,
Erode – 638 001.

.. Appellants

Vs.



W.A.No.3591 of 2023

L.Ravikumar, (PR No.C42108),
S/o.P.C.Lakshmanan,
Senior Driver, 118, Indira Nagar,
Perunthalaiyur Post, Sakthinagar via
Erode – 638 315.

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 15.03.2023 passed in W.P.No.5031 of 2019 on the file of this Court.

For Appellants : Mr.M.Murali Vinodh
For Respondent : Mr.N.Desinghu

JUDGMENT

[Judgment of the court was delivered by R.MAHADEVAN, J.]

This writ appeal has been filed by the appellants / Transport Corporation against the order passed by the learned Judge in W.P.No. 5031 of 2019 on 15.03.2023.

2. The necessary facts leading to the filing of this writ appeal are that the respondent was appointed as driver in the appellant Transport Corporation on 04.09.2008. While so, he underwent heart surgery on 08.08.2016 and after taking rest, the respondent approached the appellant Transport Corporation to join duty in the year 2018, but the appellant



W.A.No.3591 of 2023

Transport Corporation referred him to medical board in order to seek alternative employment. Accordingly, the respondent appeared before the Medical Board on 03.05.2019 and the Board certified that he is unfit for driver duty / job, without mentioning the percentage of disability suffered by him, which is essential to provide alternative employment. Therefore, the respondent filed a writ petition in W.P.No. 5031 of 2019 seeking a direction to the appellant Transport Corporation to refer him to Medical Board for examining his physically for the suitability of him for the purpose of continuing the job of driver and in the event of Medical Board furnishing its report concluding that he should not be permitted to drive vehicles, he may be provided with alternative duty as mandated in the Disabilities Act in the same scale of pay and other benefits with continuity of service. By order dated 15.03.2023, the learned Judge disposed of the said writ petition, in the following terms:

“3.....this court is of the view that since the petitioner was already re-employed as Security on the ground of disability, he may be allowed to continue in the same job or he may be provided any lighter job on the disability category.

4.Accordingly, the petitioner is hereby directed to appear before the 3rd respondent on 20.01.2023, and upon appearance of the petitioner, the 3rd respondent is directed to consider his representation dated 13.01.2023 and provide him any lighter job as stated above without fail.

5.In the result, this writ petition is disposed of. No costs.”



W.A.No.3591 of 2023

Aggrieved by the aforesaid order of the learned Judge, the present appeal has been preferred by the appellant Transport Corporation.

3. According to the learned counsel for the appellants, during the pendency of the writ petition, the respondent was subjected to medical examination on 07.04.2022 and the Medical Board has certified that he is unfit for driver job without mentioning the percentage of disability suffered by him, by its report dated 07.04.2022. Without considering the mistake of the Medical Board, the learned Judge while disposing the writ petition, erred in directing the appellant Transport Corporation to permit him to continue the job of Security or any lighter job on the disability category, by the order impugned herein, which will have to be interfered with by this court. Referring to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1955, the learned counsel submitted that only the persons suffering not less than 40% of any disability, are entitled for alternative employment under the said Act, whereas, in this case, the Medical Board has not pointed out the percentage of disability suffered by the respondent and hence, he cannot be given



W.A.No.3591 of 2023

alternative employment as per the Act. Stating so, the learned counsel prayed for appropriate orders in this writ appeal.

4.Heard the learned counsel appearing for the respondent, who submitted that there is requirement to interfere with the order of the learned Judge, which is perfectly correct, taking note of the facts and circumstances of the case.

5.Heard both sides and perused the materials available on record, more particularly, the order impugned herein.

6.It is the grievance of the appellant Transport Corporation that the Medical Board has given the report about the physical condition of the respondent, without mentioning the percentage of disability suffered by him, which is essential for providing alternative employment to him under section 47 of the Act. However, the learned Judge erred in disposing of the writ petition filed by the respondent in his favour.



W.A.No.3591 of 2023

7.It is seen from the order impugned herein that the learned Judge has directed the appellant Transport Corporation only to consider the representation of the respondent dated 20.01.2023 and provide him any lighter job, on the ground of disability category, as it is an admitted fact that the respondent was suffering from heart ailment, while he was in service; and that, the Medical Board gave a report to the effect that he is unfit for driver job. This court does not find any infirmity or illegality in the order so passed by the learned Judge. If the appellant Transport Corporation requires any specific details about the physical ailment of the respondent, it is open for them to get it from the Medical Board.

8.Therefore, finding no merit, this appeal deserves to be dismissed and is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
03.01.2024

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

6/8



W.A.No.3591 of 2023

To
WEB COPY

- 1.The Principal Secretary,
Transport Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore – 641 043.
- 3.The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
Erode Region,
Chennimalai Road,
Erode – 638 001.



WEB COPY



W.A.No.3591 of 2023

R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

W.A.No.3591 of 2023

03.01.2024