



W.P.(MD).No.1966 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.1966 of 2024

and

W.M.P.(MD)No.1957 of 2024

I.Victor Dhanraj

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai) Limited.,
Madurai Division,
Bye Pass Road,
Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Dindigul Region,
Dindigul.

3.The Branch Manager,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Periyakulam Branch, Periyakulam,
Theni District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to permit the petitioner to discharge his duty as Security Guard as per the proceedings of the 1st respondent in Ref: Admin/Aa2/584, dated 14.10.2019 in the cadre of Non-ITI Helper by considering his representation dated 13.01.2024 within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.S.Raja,
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondents 2 and 3 to permit the petitioner to discharge his duty as Security Guard as per the proceedings of the 1st respondent in Ref: Admin/Aa2/584, dated 14.10.2019 in the cadre of Non-ITI Helper by considering his representation dated 13.01.2024 within the time stipulated by this Court.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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3. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

(i) The petitioner was initially appointed as a Driver on 09.01.1998 in the Respondent Corporation on daily wage basis. On completion of 240 days of continuous service, he was regularized and made permanent on 08.01.1998. He was posted to discharge his duty at the Theni Branch of the Respondent Corporation. While so, he was working as a Driver at Theni District, the petitioner has suffered from "Multiple Lumbar Disc Prolapse" it is a condition which cause severe pain, burning and numbness in his back area which affected his health condition. As a result of which, he was not able to continue as Driver and hence he made several requests to the respondent Corporation to provide an alternative job. Despite several requests made by the petitioner to the respondent Corporation, he was not provided with any alternative job.

(ii) Hence, the petitioner filed W.P.(MD)No.1822 of 2015 before this Court seeking direction to the respondents to provide an alternative job with pay protection continuity of service with back wages from 01.03.2010 and



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other attendant benefits in accordance with Section 47(1) of the Persons Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1955. This Court disposed the aforesaid writ petition by directing the respondents to provide the petitioner an alternative job, vide order dated, 16.12.2015. Pursuant to the order passed in W.P.(MD)No.1822 of 2015, the respondents Corporation has referred the petitioner to the Medical Board. Accordingly, the petitioner appeared before the board and after examination, the board in the month of March 2016 had certified the petitioner as “unfit” for Driver job and further recommended for alternate work. In pursuance to the Medical Boards recommendation, the respondents Corporation initially provided the petitioner a job as cashier in the Theni Branch and he was also instructed to do work as Security Guard at Theni Branch. In the meanwhile on 09.08.2019 by resolution of the Respondent's Board, the petitioner's employment was re-designated as a “Non ITI Helper” permanently. Further, the petitioner was allotted Security Guard duty perpetually. In the above circumstances, on 20.12.2022, he was transferred to Batlagundu Branch, Tire Plant from Theni Branch and thus from 21.12.2022, he was working at Batlagundu Tire Plant as Security Guard. Be it so, during the 1st week of December, 2023 the Branch



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Manager of Batlagundu Branch did not allow him to discharge his duty as a Security Guard and insisted to do work as a Driver. Further, the Branch Manager, Batlagundu Branch has directed him to approach the 2nd Respondent to obtain favorable order in this regard.

(iii) Accordingly, the petitioner had approached the 2nd Respondent and he was assured that Security Guard duty would be allotted to him however, he has been directed to join in the 3rd Respondent Branch. Accordingly, on 06.01.2024, he has joined in the 3rd Respondent branch, wherein he was allotted duty as Cashier. But within a period of just for three days in the 3rd Respondent office, suddenly the officials of the 3rd Respondent orally instructed him that they cannot provide the petitioner any job in the 3rd Respondent's Branch. He was also coerced by the 3rd respondent to undertake works which involves heavy lifting and physical tasks which would not fit his health condition. Hence, the petitioner sent a detailed representation to the respondents on 13.01.2024, requesting to permit him to discharge his duty as Security Guard. Since the same was not considered, the present writ petition came to be filed.



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4. Heard, the learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents. Perused the materials available on record.

5. The learned Standing Counsel appearing for the respondents submitted that since the post of Security Guard is manned by outsourcing post, it has become impossible for the Corporation to provide the petitioner with the post of Security Guard. However, the Corporation could accommodate him in the post of Cashier.

6. In view of the same, this Court hereby direct the respondents to accommodate the petitioner in the post of Cashier without any interruption and permit him to discharge the duty immediately. The said exercise shall be done within a period of four (4) weeks from the date of receipt of a copy of this order.



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7. Accordingly, this Writ Petition stands disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

31.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

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L.VICTORIA GOWRI, J.

Sml

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