



W.P.(MD).No.4706 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.4706 of 2021

and

W.M.P(MD)No.3816 of 2021

M.Senthilkumar

...Petitioner

Vs.

The Management of Tamil Nadu
State Transport Corporation (Madurai)
Ltd., Madurai Region,
Rep. by its Managing Director,
Bye pass Road,
Madurai-625 016.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to refer the petitioner to Medical Board for find out his disability and to provide him a suitable alternative permanent employment with pay protection, continuity of service, back wages and all other attendant benefits in accordance with Sec 47 (1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Particioation) Act, 1955.



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W.P.(MD).No.4706 of 2021

For Petitioner : M/s.Iswarya
For Respondent : S.Raja
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondent to refer the petitioner to Medical Board for find out his disability and to provide him a suitable alternative permanent employment with pay protection, continuity of service, back wages and all other attendant benefits in accordance with Sec 47 (1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1955.

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

The petitioner was appointed as a Driver in the respondent Corporation in the year 2009. He was made permanent with effect from 2015. He met with an accident on 07.02.2018, while riding a two wheeler. As a result of which, he suffered post traumatic sequelae of grade III open wound, for which, he underwent surgery and he was treated as in-patient at Preethi Hospital and



W.P.(MD).No.4706 of 2021

discharged on 15.02.2018. Thereafter, he was continuously bedridden and taking treatment as out-patient in the said Hospital. Consequently, he succumbed to a medical condition that he was permanently disabled from performing his duty as driver. Hence, he sent a representation dated 09.01.2021 to the respondent, requesting to send him to the Medical Board, as such to find out his medical fitness and provide him with an alternative duty. However, the same was not considered by the respondent. Hence, the present writ petition came to be filed.

3.Heard, the learned Counsels on either sides. Carefully perused the materials available on record.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would



W.P.(MD).No.4706 of 2021

amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. Whenever a representation of this kind is made by the employee to the employer, the same has to be treated with utmost promptness considering the nature of the urgency involved. Contemning the callousness of the respondent / employer and considering the representation of an employee who has suffered an accident, as a result of which, he made a representation seeking an alternative employment, this Court hereby direct the petitioner to submit a representation afresh to the respondent in this regard. On receipt of the same, the respondent Corporation is directed to refer the petitioner to the Medical Board functioning at Rajiv Gandhi Medical College Hospital at Madurai to assess his medical fitness to continue duty as a driver forthwith.

6. The Medical Board is directed to examine the petitioner and submit a report before the respondent Corporation within a period of one (1) month from the date of receipt of a copy of this order. On receipt of the same, respondent



W.P.(MD).No.4706 of 2021

Corporation is directed to provide him with an alternative duty, if he is assessed medically unfit to the aforesaid job, by the Medical Board.

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

03.04.2024

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

To
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State Transport Corporation (Madurai)
Ltd., Madurai Region,
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W.P.(MD).No.4706 of 2021

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.4706 of 2021

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