



W.P.(MD)No.9276 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.(MD)No.9276 of 2024

and

W.M.P.(MD).No.8439 of 2024

M.Saravanaperumal

... Petitioner

Vs.

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

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to refer the petitioner to Medical Board for find out his disability and to provide the petitioner a suitable alternative permanent employment with pay protection, continuity of service, back wages and all other attendant benefits in accordance with Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Petitioner : Mr.G.M.Xavier

For Respondent : Mr.Gladson Micheal Rajadurai
Standing Counsel



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ORDER

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This Writ Petition has been filed for issuance of Writ of Mandamus, seeking direction against the respondent to refer the petitioner to Medical Board to assert his disability for providing an alternate employment with pay protection, continuity of service, back wages and all other attendant benefits in accordance with Section 47(1) of the Persons with Disabilities.

2. Heard Mr.G.M.Xavier, learned counsel for the petitioner and Mr.Gladson Micheal Rajadurai, learned Standing Counsel for the respondent.

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

4. Mr.G.M.Xavier, learned counsel for the petitioner submitted that the petitioner has filed this Writ Petition in order to assess his disability for enabling him to get a suitable alternate employment. The petitioner who is working as a Driver in the Dindigul branch of the respondent Corporation was suffering from constant pain due to loss of tissue in the spinal cord and irregular blood flow. The petitioner has served as a Driver for nearly 15 years. But the petitioner's medical condition did not permit him to restore his regular work and



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grant leave from 21.03.2024 to 20.04.2024. Even when the leave is not granted, the petitioner did not turn to duty, but he is availing the leave, without the leave being granted to him. Now, the petitioner claims that he should be sent to the medical board in order to find his medical fitness and to enable him to get any alternate appointment. The petitioner is said to have given a representation on 23.03.2024. When an employee submits medical leave application and the employer is not satisfied with the reasons stated, the employer can send the employee to appear before the medical board and get their medical opinion.

5. At no point of time, the petitioner has not stated that he has suffered a permanent disability. Even according to the representation, he was advised by the Doctors to take a light duty for atleast six months. So, the petitioner cannot imagine himself that he had acquired a permanent disability and for which he is eligible to get a permanent alternate employment. Since the petitioner had availed leave without being granted by the department, the petitioner has invented a way out by giving application to consider him for some alternate employment. Since the petitioner's leave is going to expire, it is up to him to join duty and then give a proper application, if he is in need of extension of medical leave or in need of any other alternate employment. In such case, it is for the respondent to take a decision as to whether to refer the petitioner to medical board or to initiate disciplinary action against him for availing leave.



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6. With the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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



WEB COPY



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R.N.MANJULA, J.

Nsr

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