



WP(MD) No.9562 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.9562 of 2024

and

W.M.P(MD)Nos.8661 & 8662 of 2024

K.Ladalingam

... Petitioner

Vs.

1.The Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Represented by its Managing Director,
Kumbakonam.

2.The General Manager

Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region,
Karaikudi.

3.The Branch Manager

Madurai Ulaganeri Branch,

Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Madurai.

...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 Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 2nd respondent in Ref. No.Th.a.a.Po.Ka/Karai/Ni Be/ann5/127-1/24 dated 16.03.2024, was quash the same and consequently direct the respondents forthwith continue to provide duty to petitioner with suitable alternative employment with pay protection continuity of service and back wages from the date of disengagement i.e., from 12.09.2023 to till the date on which he provided with alternative light duty as per Section 20 (4) of the Rights of the Persons with Disabilities Act, 2016.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.K.Ramaiah

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to call for the records pertaining to the



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impugned order passed by the 2nd respondent in Ref. No.Th.a.a.Po.Ka/Karai/Ni Be/ ann5/127-1/24 dated 16.03.2024, was quash the same and consequently direct the respondents forthwith continue to provide duty to petitioner with suitable alternative employment with pay protection continuity of service and back wages from the date of disengagement i.e., from 12.09.2023 to till the date on which he provided with alternative light duty as per Section 20 (4) of the Rights of the Persons with Disabilities Act, 2016.

2. Heard Mr.A.Rahul, learned counsel for the petitioner and Mr.K.Ramaiah, learned counsel appearing for the respondents.

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

4. The learned counsel for the petitioner submitted that



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the petitioner is suffering from visual impairment due to colour blindness. By stating so, the petitioner got medical opinion on 13.02.2024, appeared before the Medical Board on 06.02.2024 at Rajaji Hospital. The Medical Board has given a report stating that the patient is unfit for driving. Despite the petitioner has not been given with any alternative employment, the petitioner has preferred the present Writ Petition.

5. Even in the impugned order, it is admitted that the medical opinion has been given as “patient is unfit for driving.” But however, the order has been issued stating that as per the Disability Act, only if a person suffers a disability of more than 40%, alternative employment can be given.

6. The impugned order would show that the second respondent did not apply his mind because the very physical ability expected for driving itself is a good visual ability. When the Board



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has given a categorical opinion that the petitioner is unfit for driving, it is unfair on the part of the second respondent to allow him to handle the very same job of driving at the risk of the passengers.

7. If the second respondent is not satisfied with the opinion given by the Medical Board, it is up to him to refer the petitioner to any other appellate authority/ re-examination and got the percentage of disability or better opinion about the visual ability of the petitioner. Since the second respondent had omitted to take into consideration of the vital aspect of the matter, the impugned order is liable to be set aside and the second respondent should be directed to re-appraise the issue in a holistic manner and pass an order afresh.

9. In view of the above, the Writ Petition is **allowed** and the impugned order, dated 16.03.2024 passed by the second



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respondent is set aside. The second respondent is directed to re-appraise the issue in a holistic manner and pass an order afresh within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

18.04.2024

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

RM



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.9562 of 2024

Dated:
18.04.2024