



W.P.(MD)No.11497 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.11497 of 2021

M.Kutty Raja

... Petitioner

Vs.

1.The Managing Director,
State Express Transport Corporation,
Tamil Nadu Limited,
Pallavan Salai,
Chennai – 600 002.

2.The Branch Manager,
State Express Transport Corporation,
Tamil Nadu Limited,
Melur Main Road, Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to issue alternative light duty order to the petitioner by way of consider the petitioner's representation dated 18.06.2021.

For Petitioner	: Mr.B.Senthilkumar
For Respondents	: Mr.S.C.Herold Singh Standing Counsel

ORDER

This Writ Petition has been filed to direct the respondents to issue alternative light duty order to the petitioner by way of consider the petitioner's representation dated 18.06.2021.



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2.The petitioner was working as a Driver in the respondents Transport Corporation. After completing 15 years of service, he was encountered with serious health complications including Diabetes and Heart disorders. Following which, he was directed by the respondent Corporation to appear before the Medical Board vide proceedings dated 25.08.2020. On the basis of report of the Medical Board, he was provided with alternative duty as a Diesel Pump Operator in the second respondent Corporation. However, he was permitted to serve as Diesel Pump Operator only for a period of three months and thereafter, he was kept in the waiting list without providing any alternative light duty. Hence, the petitioner made a representation dated 18.06.2021, to issue an alternative light duty and the same was not considered and hence, this Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that, on filing of the Writ Petition, by the oral instruction of the second respondent, he was further allowed to continue in service as a Diesel Pump Operator in the respondents Corporation. However, now for the past 1½ months, he is not allotted with any alternative light duty including erstwhile Diesel Pump Operator, in which he served since 2020. The petitioner's plight is that though he was provided with an alternative duty on the basis of Medical Board's report of the year 2020,



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the same was not on the basis of any written order but on the basis of the oral instruction of the second respondent. Only under such scenario, now and then, he was not provided with appropriate duty and now he is kept in the waiting list without providing any alternative duty. While so, on 03.06.2024, he was further called for by the Regional Medical Board for physical examination and on the basis of detailed physical examination, a report dated 15.06.2024, has been given by the Regional Medical Board, at Rajiv Gandhi Medical Hospital, at Chennai in which, it has been informed to the respondents that the petitioner is not fit for Driver/Conductor job and has been advised to avoid strenuous job in view of his medical condition requiring regular and continuous cardiac medication. On these grounds, the learned counsel for the petitioner pressed for allowing the Writ Petition.

4.A counter has been filed by the first respondent and the learned Standing Counsel appearing for the respondent Corporation submitted that based on the request made by the petitioner on 12.12.2019, he was referred to a three member Medical Board and on the basis of that report, he was permitted with alternative duty. As of now, on 15.04.2024, the petitioner is discharging his duty as a Diesel Pump Operator and Security Guard. It was also brought to the notice of this Court that, even if he is engaged as a Diesel Pump Operator cum Security Guard, he is paid with his regular salary of Driver cum Conductor and on instructions,



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the learned Standing Counsel further submitted that as on date, the petitioner is under medical leave and pressed for dismissal of the Writ Petition.

5. Heard the learned counsel for the petitioner, the learned Standing Counsel for the respondents and carefully perused the materials available on record.

6. However, considering the provisions of the Right of Persons with Disability Act, 2016, this Court is of the considered view that a person, who have rendered unblemished service for more than 1½ decades, if subsequently, encountered with serious health issue, should not be abandoned by the employer and should be duly protected by providing them with alternative light duty continuously without any break in service and their right to employment is protected by the Constitution of India.

7. In view of the same, this Court hereby direct the respondents to issue alternative light duty to the petitioner continuously without any break in service. However, it is made clear that he should be subjected to periodical medical examination, once in six months and on the basis of which, the employer respondent Corporation could provide him with a suitable duty.



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8. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs.

03.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn
To

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L.VICTORIA GOWRI, J.

Mrn

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