



W.P.(MD)No.16194 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.16194 of 2024

and

W.M.P.(MD).Nos.14071 & 14072 of 2024

P.K.Murugesan

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Secretary,
Transport Department,
Secretariat,
Chennai-600 009.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam, Thanjavur District.
- 3.The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Trichy Region,
Periyamilaguparai,
Trichirappalli District.
- 4.The Dean,
Regional Medical Board,
Rajiv Gandhi Government General Hospital,
Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the third respondent in Ref: TNSTC/KUM/TRY/DS/SM1/SPL/7170/2024, dated 26.03.2024, quash the same and consequently direct the respondents to provide permanent alternative light duty to the petitioner under Section 20(4) of the Rights of Persons with Disabilities Act, 2016 and on the basis of the medical report of the petitioner and to provide all the benefits which are available to the petitioner under Section 47(1) of Persons with Disability (equal opportunities, protection of rights and full participation) Act, 1985 within the time limit that may be fixed by this Court.

For Petitioner : Mr.N.Sudhagar Nagaraj

For R-1 & R-4 : Mr.S.Shanmugavel,
Additional Government Pleader

For R-2 & R-3 : Mr.K.Ramaiah,
Standing Counsel

ORDER

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

2. Heard Mr.N.Sudhagar Nagaraj, learned counsel appearing for the petitioner, Mr.S.Shanmugavel, learned Additional Government Pleader appearing for respondent Nos.1 and 4 and Mr.K.Ramaiah, learned Standing Counsel appearing for respondent Nos.2 and 3.



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3. The petitioner has filed this Writ Petition challenging the order of the third respondent in Ref: TNSTC/KUM/TRY/DS/SM1/SPL/7170/2024, dated 26.03.2024 and consequently to direct the respondents to provide permanent alternative light duty to the petitioner on the basis of the medical report of the petitioner and to provide all the benefits known to law.

4. The petitioner joined as a 'Conductor' in the respondent Corporation in the year 2016. Due to the sudden health set back, the petitioner's right leg and right hand become non-operational. Consequently, the petitioner made a representation to the respondents seeking for an alternative employment. As per the direction of the third respondent, he appeared before the Regional Medical Board, Rajiv Gandhi Hospital, Chennai / fourth respondent herein. Despite the Medical Board has given a report that he was suffering from 25% disability and that he was not fit to do the job of conductor, he was asked to undergo a medical examination after one year.

5. The Review Report also would show that the petitioner was suffering from 25% disability and he is not fit enough to do the job of Conductor. Since the report as stated that the petitioner has to be reassessed after six months, the third respondent had passed an order on 26.03.2024 to accommodate the



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petitioner to the alternative employment only for six months and a communication to this effect has been sent to the third and fourth respondent's Advocate on 26.03.2024.

6. In fact, the communication dated 26.03.2024, appears to have been sent to the third and fourth respondent's Advocate for making appropriate submissions before the Court about the manner in which the direction made in the earlier writ petition in W.P.(MD).No.7170 of 2024 has been complied with.

7. Mr.N.Sudhagar Nagaraj, learned counsel appearing for the petitioner submitted that the petitioner has been subjected to frequent medical examination despite the medical report states that the petitioner is unfit for doing the job of the Conductor. Since the medical report does not say that the disability of the petitioner is permanent and he need not appear for any review, it seems that the respondents are sending the petitioner for review assessment as stated in each of the medical reports. Even according to the report dated 26.03.2024, the petitioner is required to be reassessed after six months. Therefore, as per the medical report, the petitioner has been given with an alternative employment for six months and he was asked to subject himself for medical reassessment.



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8. The nature of the permanent disability has to be certified only by the Medical Board and not by the petitioner himself. Since the petitioner did not go for the next medical reassessment, but he has chosen to challenge the communication sent to the respondent's counsel.

9. In view of the above, the Writ Petition is **disposed of** with a direction to the respondents to subject the petitioner to medical re-assessment before the fourth respondent as per the instructions given in the earlier report. After getting a report from the fourth respondent subsequent to the medical reassessment, the respondents shall take a decision as to necessity to accommodate the petitioner in an alternative employment. No costs. Consequently, the connected miscellaneous petitions are closed.

19.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG
To

1.The Government of Tamil Nadu,
Represented by its Secretary,
Transport Department,
Secretariat,
Chennai-600 009.



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2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam, Thanjavur District.

3.The General Manager,
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4.The Dean,
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R.N.MANJULA, J.

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