



W.P.(MD)No.20942 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.20942 of 2017
and
W.M.P.(MD).No.17230 of 2017

S.Shiek Abdullah

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai Ltd),
Head Office, Bye Pass Road,
Palanganatham,
Madurai District.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Head Office, Bye Pass Road,
Chettinayakanpatti Post,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings in Parvai:Kusa-Thindu/WP/12420/2011, dated 06.07.2017 and quash the same as illegal and consequently to direct the respondents to treat the period from 28.09.2006 to 01.06.2010 as duty period and to pay all attendant monetary benefits as per section 47(1) of the persons with Disabilities (Equal



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Opportunities, Protection of Rights and Full Participation) Act, 1995, within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Nawaz Khan
for M/s.Ajmal Associates

For Respondents : Mr.S.C.Herold Singh,
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order dated 06.07.2017, passed by the first respondent, rejecting the petitioner's request for treating the period from 28.09.2006 to 01.06.2010 as duty period and to pay all attendant and monetary benefits as per Section 47(1) of the persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. The petitioner had earlier filed a Writ Petition before this Court in W.P. (MD).No.12420 of 2011. In the said Writ Petition, by an order dated 09.11.2016, a direction was issued to the petitioner to make a proper representation to the respondents for availing the benefits under Section 47 (1) of the persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995 and the respondents were directed to dispose of the same in accordance with law within a period of four weeks from the date of



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receipt of the representation from the petitioner. Pursuant to the said direction, a representation was given by the petitioner to the second respondent on 28.06.2010. Based on the direction issued by this Court on 09.11.2016 in W.P. (MD).No.12420 of 2011, the respondents had considered the representation of the petitioner and had rejected the same by refusing to treat the period from 28.09.2006 to 01.06.2010 as duty period as claimed by the petitioner on the ground that he is not entitled for the same.

3. The petitioner has challenged the impugned order on the ground that the first respondent, under the impugned proceedings dated 06.07.2017, has erroneously held that the petitioner has not joined duty inspite of the Certificate given by the Medical Board Officer that the petitioner is medically fit for the Conductor job, as according to the petitioner, he is medically unfit to continue with his Conductor job. The grievance of the petitioner is that the respondents have not sent the petitioner to the Medical Board, which is an administrative lacuna attributable to the respondents.

4. A Counter affidavit has been filed by the respondents denying the contentions of the petitioner. They would categorically state that Section 47(1) of the persons with Disabilities (Equal Opportunities, Protection of Rights and



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full participation) Act, 1995, does not apply to the case of the petitioner, as he does not come within the definition of disability as per the provision of the said statute. They have also contended that the petitioner did not co-operate with the respondents and only based on the medical reports, the petitioner was not given with an alternative post.

5. Admittedly, the petitioner seeks reliance on Section 47(1) of the persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995, in support of his contention in this Writ Petition. As rightly contended by the respondents, the said provision will apply only to cases where the petitioner case falls within the definition of “disability” as defined under the persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995. Disability has been defined under Section 2(i) of the persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995 and the disability means:

- “(i). *Blindness;*
- (ii). Low Vision;*
- (iii). Leprosy-cured;*
- (iv). Hearing Impairment;*
- (v). Locomotor disability;*
- (vi). Mental retardation;*



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(vii). *Mental Illness;*”

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6. The petitioner does not fall under any of the aforementioned disabilities. Only in cases where the person falls under the aforementioned disabilities, the question of applicability of the persons with the persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995, will arise. In the instant case, the petitioner relies upon Section 47(1) of the persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995, in support of his contention. Since the petitioner does not fall under any of the categories of disability as defined under the persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995, the granting of relief to him in this Writ Petition does not arise.

7. A categorical assertion has also been made by the respondents that the petitioner has failed to co-operate for his examination by the Medical Board, pursuant to his representation, which is the basis of this Writ Petition. The petitioner has also not placed on record before this Court the Medical Board report to prove that he suffers from permanent disability and he is unfit to do the job of a Conductor.



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8. For the foregoing reasons, this Court does not find any merit in this Writ Petition and the same stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

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2.The General Manager,
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ABDUL QUDDHOSE, J.

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