



W.P.No.4417 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.4417 of 2023

and

W.M.P.No.4448 and 4449 of 2023

S. Sekar

.. Petitioner

Versus

1.Metropolitan Transport Corporation,
(Chennai) Ltd., rep by its
Managing Director, Pallavan Salai,
Chennai – 2

2. The General Manager,
Metropolitan Transport Corporation,
(Chennai) Ltd.,
Pallavan Salai, Chennai – 2

3. The Senior Deputy Manager(HR)
Metropolitan Transport Corporation,
(Chennai) Ltd., rep by its
Pallavan Salai, Chennai – 2

4. The Dean,
Regional Medical Board,
Government Chengalpeta Medical College Hospital,
Chengelpet.



W.P.No.4417 of 2023

5. The Rajiv Gandhi Government Hospital,
Rep by its Dean, No.3, E,V,R,Periyar Salai,
Park Town, Chennai – 600 003.
(R5 Suo Motu impleaded vide order dated
28.04.2023)

...Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents 1 to 3 to provide suitable alternative employment to the petitioner on permanent basis, in commensurate with continuity of service, pay protection, back wages and other service benefits; to treat the entire period from 09.10.2022, 72 days as duty with pay for all purposes and to restore the number of earned leave and medical leave days which were adjusted from petitioner's leave account, within a specified time as may be fixed by this Hon'ble Court and pass orders.

For Petitioner : Mr.V.Ajoy Khose

For Respondents 1 to 3 : Mr.A.Vinoth Raj
Standing Counsel

For Respondents 4 & 5 : Mr.K.Tippusultan
Government ADvocate

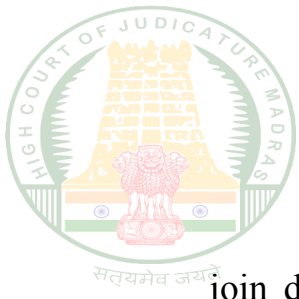


W.P.No.4417 of 2023

ORDER

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2.The case of the petitioner is that he is working as a Conductor in the 1st Respondent Corporation from the year 2008. In the year 2009 he was affected by Bleeding Vericose vain in both legs and faced several problems while attending duty as Conductor. Hence, the petitioner made a representation seeking for alternate employment before the first respondent, who inturn referred the petitioner for medical board. After medical examination, the medical board submitted a report dated 15.04.2016, wherein, it was stated that the petitioner was “unfit to hold the post of Conductor”. Due to which the petitioner was permitted to



W.P.No.4417 of 2023

WEB COPY

join duty as “Time Keeper” by the Branch Manager from 15.04.2016.

After six months i.e on 26.04.2017 the petitioner appeared before the Medical Board for examination who opined that the petitioner has to undergo surgery and to avoid long standing. In the year 2019 petitioner suffered “Left Vocal Cord Angiomatous Polyp” and he underwent surgery. It is pertinent to note that he was advised not to speak for long hours. However, the petitioner approached the respondent to join duty as “Time Keeper” on the same scale on 09.10.2022. The sum and substance of the case is that when the petitioner went to join duty on 09.10.2022, the respondents does not permit him to join duty and questioned him that why he did not undergo surgery as per the report dated 26.04.2017 for which the petitioner gave an explanation that the Chief Civil Surgeon, Department of Anesthesiology, Chengalpattu Government Medical College and Hospital advised not to go for surgery. The grievance of the petitioner is that the respondents without the consent of the petitioner adjusted the leave towards Medical Leave, Casual Leave, Earned Leave from 8th December 2022. It is pertinent to note that they have not given salary for the month of January 2023. Hence, this petition.

3.The learned counsel for the petitioner submitted that as the



W.P.No.4417 of 2023

WEB COPY

petitioner is the sole bread winner of the family and now his family is put in indigent circumstances, due to the denial of salary by the respondents. Hence, the petitioner seeks a direction to the respondents to grant him alternate employment and also pay the salary due to him. Hence, prays to allow this petition.

4. The learned standing counsel appearing for the respondents filed a counter affidavit, wherein it has been stated that the petitioner was irregular in attending his duty from the year 2009. It was also stated that earlier on 09.05.2017 the Medical Board of Rajiv Gandhi General Hospital has stated that the petitioner must admit himself as an inpatient for immediate surgery. However, the petitioner without following any medical advice had insisted once again to join duty as Time Keeper. It was further stated that the petitioner without undergoing surgery has insisted to provide alternate employment. Hence, prays to dismiss this petition.

5.I have given anxious consideration to either side submissions



W.P.No.4417 of 2023

WEB COPY

and perused the materials available on record.

6. On a perusal of records, it is seen that the inspite of the instructions given to the petitioner to undergo surgery he has not done the same. It is pertinent to note that even in the recent medical report dated 06.02.2025 issued by the Rajiv Gandhi Government General Hospital it has been stated that the petitioner is unfit for the conductor job and he is advised to change his job that does not require prolonged standing and the petitioner is advised to undergo varicose vein surgery. This Court observed that the ailment of the petitioner i.e varicose vein is a curable one.

7. In view of the above facts, the petitioner is directed to under go varicose vein surgery as stated by the medical experts and thereafter approach the concerned authorities. The authorities concerned shall analyze the medical report of the petitioner and thereafter decide whether the petitioner is able to perform the conductor job or he can be provided with any other alternate employment and pass orders accordingly.



W.P.No.4417 of 2023

WEB COPY

11. With the aforesaid direction, this writ petition is disposed of.

No order as to costs. Consequently, the connected miscellaneous petitions are closed.

24.02.2025

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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V.BHAVANI SUBBAROYAN, J.

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