



WEB COPY



W.P.No.9135 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.11.2025

PRONOUNCED ON : 28.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.9135 of 2019
and W.M.P.No.9653 of 2019

K.Sampath

.. Petitioner

vs

1.Metropolitan Transport Corporation Ltd.,
rep. By its Managing Director,
Pallavan Salai, Chennai-2.

2.Senior Deputy Manager (HR)
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai -2.

3.The Dean
Rajiv Gandhi Government General Hospital,
Chennai -3.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents 1 and 2 to provide the petitioner forthwith suitable alternative employment on permanent basis, in commensurate with his health condition, based on the report submitted by the 3rd respondent/Region Medical Board and based on the examination made by them on 02.11.2018, with pay protection, continuity of service, back wages and all other attendant benefits w.e.f. 30.07.2015, after adjusting the salary already paid to him during the broken



W.P.No.9135 of 2018

spells in which they provided him light duty and also to restore his medical leave and earned leave when he was forced to surrender in order to get salary during August, September and November 2018.

For Petitioner : Ms.H.Nandhini
for Mr.V.Ajoy Khose

For Respondents : Mr.C.Gauthamaraj for R1 and R2
Government Advocate
Mr.E.Sundaram for R3
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

2. The case of the petitioner in brief is that he was appointed in the services of the first respondent as driver on 18.10.1991; that on 29.07.2015 while going home after attending duties at 12 mid night, he had met with an accident and was in hospital from 30.07.2015 to 06.08.2015; and that he had taken treatment at his house thereafter.

3. It is the further case of the petitioner that on account of the injuries sustained by him in the accident, he was unable to perform his duties as

2/13



W.P.No.9135 of 2016

driver and accordingly, approached respondents and submitted representation/application on 08.07.2016 seeking alternate employment; that the respondents by its letter dated 09.09.2016 called upon the petitioner to appear before the Medical Board of the 3rd respondent Hospital on 14.09.2016 at 10.00 a.m.; and that on the petitioner appearing before the Medical Board, the 3rd respondent addressed a communication dated 14.09.2016 to the second respondent certifying that the petitioner is temporarily unfit for the post of driver; and that the respondents by considering the aforesaid certificate, provided him with alternate employment to work in the post of Helper (Non-ITI) for a period of 6 months at a time without any change in his current designation.

4. It is further contended by the petitioner that the respondent extended the alternate employment provided to the petitioner for a tenure of six (6) months from 31.05.2017 till 01.08.2018; and that thereafter he was not provided with alternate employment.

5. The petitioner contended that as the respondent did not continue his alternate employment even though he was not fit to discharge his duties as Driver, despite seeking continuation of his alternate employment, he had



W.P.No.9135 of 2018

submitted a representation; that in response to the same, respondents directed him to appear before the Medical Board on 02.11.2018; and that on the petitioner appearing before the medical Board, the respondent No.1 continued him in his alternate employment.

6. It is the further case of the petitioner that as the respondent 1 and 2 thereafter did not provide him alternate employment from 01.03.2019 he had approached this Court by the present writ petition; and that respondents provided him again with alternate employment only from June 2021 and continued him in alternate employment till he attained the age of superannuation and retiring from service on 30.06.2023.

7. It is contended by the petitioner that since, the petitioner continued to suffer on account of disability he had incurred on account of accident that had taken place on 29.07.2015 while in service, the respondent not only did not provide him alternate employment on regular basis but also did not pay any salary to the petitioner to which he was entitled to. Hence, the present writ petition.

8. Counter affidavit on behalf of the respondent is filed.



W.P.No.9135 of 2019

9. The respondent by the counter affidavit while not disputing the fact that the petitioner was working as driver on 29.07.2015 having met with an accident; that on the petitioner approaching the respondent for being provided with alternate employment other than the post of driver on account of he having suffered injuries, the respondent based on the Medical Board report provided the petitioner with alternate employment of helper in the second respondent Corporation, however stated the disability incurred by the petitioner to be temporary.

10. The respondent further contended that the Medical Board in its report on the basis of which, the petitioner was provided with alternate employment at the first instance stated that the disability incurred to be temporary; that the petitioner should be sent back to the 3rd respondent for examination after a period of 6 months; and that for the said reason the alternate employment provided was extended till February, 2019.

11. The respondent, by the counter affidavit, further contended that for the period during which alternate employment was provided, the respondents have paid the salary, and since, the petitioner did not work



W.P.No.9135 of 2017

during intermittent periods, salary was not paid.

WEB COPY

12. Contending as above, the learned counsel for the respondent seeks for dismissal of the petition.

13. I have taken note of the respective contentions urged.

14. From the counter affidavit filed by the respondents, it would be clear that the petitioner having met with an accident, the respondents had provided him alternate employment to work as helper in the respondent Corporation temporarily and the said provision of alternate employment on temporary basis was for a period of 6 months on each count. The respondents having provided alternate employment for a period of 6 months on each count, had called upon the petitioner to appear before the Medical Board to certify as to whether the temporary disability suffered by the petitioner is continuing or the petitioner has recovered from the injuries sustained by him to resume his regular duties as driver. The respondents, by considering the report of the medical board which is the expert body to certify as to whether the person is fit for discharging particular job, having opined that the petitioner is temporarily unfit to work as a driver and that on



W.P.No.9135 of 2016

the basis of the said report having provided alternate employment could not have discontinued the said employment on their own without obtaining expert opinion in the matter.

15. Further, the respondents having periodically called upon the petitioner to appear before the Medical Board initially on 14.09.2016 and thereafter on 31.05.2017, on 02.11.2018 and the Medical Board having observed that the petitioner is not fully recovered to discharge the duties of driver, recommended for continuation of the petitioner in alternate employment and the respondent having acting upon the said advice of the Medical Board by providing the petitioner with alternate employment and continuing the same till February, 2019, if only thought that the petitioner having fully recovered from the surgery he has undergone and fit to resume his duties as driver ought to have called upon the petitioner to appear before the Medical Board once again to certify as to whether he had fully recovered from the injuries sustained by him and, he would be able to discharge / perform the duties of a driver.

16. Admittedly, no such action has been taken by the respondents. On the other hand, the respondents did not provide alternate employment to



W.P.No.9135 of 2019

the petitioner from 01.03.2019 to June, 2021 nor the petitioner was issued with any communication directing him to approach the Medical board of the empanelled hospital. The respondent without undertaking such exercises; on their own will and volition, stopped providing alternate employment to the petitioner in one of the internal departments of the respondents and that, such non-provision of alternate employment to the petitioner continued from March 2019 till June, 2021 (2 Years and 4 months).

17. In the interregnum, the petitioner having approached this Court by the present writ petition and the respondents on being served with the notice, started providing alternate employment to the petitioner from July 21, till he attained the age of superannuation on 30.06.2023. The fact that the respondents provided alternate employment to the petitioner prior to March 2019 and thereafter again from July 2021, however, did not pay salary to the petitioner during the interregnum period, on the ground that the petitioner did not work during the said period.

18. The fact of petitioner being provided with alternate employment with intermittent breaks upto February, 2019 and thereafter, not providing from March 2019 to June 2021 is not on the basis of any Medical Board



W.P.No.9135 of 2019

opinion, certifying the petitioner being fit to discharge the duties of a driver.

Further, coupled with the fact, the respondents, having provided the petitioner with alternate employment once again from June 2021 till he attained the age of superannuation for a period of two years would only go to show that the petitioner did not recover fully and declared as fit to discharge his regular duties of a driver.

19. The respondents thus, having accepted the fact that the petitioner is not fit enough to discharge his regular duty of a driver, could not and ought not to have removed the petitioner from the alternate employment provided to him, as it is not the case of the respondents that the petitioner during the said period had recovered from the injuries and was declared as fit by the Medical Board.

20. Further, the respondents having accepting the fact of petitioner not having recovered fully from the injuries sustained by him in the accident, having provided alternate employment periodically cannot be allowed to claim that the petitioner was fit enough during the intermittent periods to drive when he was not provided with alternate employment and the petitioner having not reported to duty and thus, not being paid salary for the



W.P.No.9135 of 2015

said period.

WEB COPY

21. Further, no material is placed before this Court to show that the petitioner being issued with any communication directing him to report to the duty of a driver on being declared as fit to discharge his regular duties by the Medical Board; and that on account of petitioner's refusal to perform the duties of a driver, the respondent authorities having initiating any action. Thus, the claim of the respondent of having paid salary for the period when the petitioner was provided with alternate employment and for the intermittent period when the petitioner was not provided alternate employment, is not entitled for salary in the considered view of this Court, cannot be countenanced for the reasons that it is on account of failure on part of the respondents, the petitioner was not provided with alternate employment during the intermittent period even though he continued to suffer from disability, he had suffered due to the accident he had met with on 29.07.2015. The fact of respondents providing alternate employment to the petitioner periodically with intermittent interruptions leads this Court to conclude that due to inaction on the part of the respondent, the petitioner was not provided with alternate employment and for the said reason, the petitioner cannot be penalised for no fault of his.



WEB COPY

22. Thus, this Court is of the view that since, the disability sustained by the petitioner on account of the accident occurred on 29.07.2015 and the injuries sustained, prevented the petitioner from discharging his regular duty as a driver and was required to be provided with an alternate employment. Though on behalf of the respondent, it is contended that there is a shortage of drivers with the first respondent Corporation and for the said reason, the respondents did not provide alternate employment to the petitioner on a contingent basis, it is to be noted that the petitioner being a driver could not be allowed to discharge duty. Even if he is medically unfit, as the same would pose risk not only to the petitioner but to the general public, if any untoward incident takes place.

23. Thus, this Court is of the view that the action of respondents in not providing alternate employment to the petitioner during intermittent periods as noted herein above cannot be held to be valid, more particularly, when the Medical Board did not certify the petitioner as being fit to discharge his regular duties as a driver.

24. For the said reasons, the petitioner cannot be denied payment of



W.P.No.9135 of 2025

salary for the said period.

WEB COPY

25. Accordingly, the writ petition is allowed and the respondents are directed to pay the wages of the petitioner for the broken spells, in which, the petitioner was not provided light duty/alternate employment as a 'helper', within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

28.11.2025

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
msv

To

1. The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai-2.

2. Senior Deputy Manager (HR)
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai -2.

3. The Dean
Rajiv Gandhi Government General Hospital,
Chennai -3.



WEB COPY



W.P.No.9135 of 2019

T. VINOD KUMAR, J.

msv

Pre-Delivery Order in

W.P.No.9135 of 2019

and W.M.P.No.9653 of 2019

28.11.2025