



WEB COPY

WP No. 11218 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 11218 of 2024

and

WMP.No.12309 of 2024

Anandan

Petitioner(s)

Vs

1. The Government Of Tamilnadu
Rep. By Its Secretary, Education
Department, Fort St. George, Chennai 9
- 2.The Joint Director Of School Education
College Road, DPI Campus,
Chennai 600 006
- 3.The Chief Educational Officer
Office Of The Chief Educational Office,
Raja Street, Coimbatore 641 001
- 4.The District Educational Officer(primary) ,
Kuniamuthur, Coimbatore
- 5.The District Educational Officer
Pollachi, Coimbatore

Respondent(s)



PRAYER : This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to quash the order passed by the 3rd respondent vide Na.Ka.No. 6244/ A1/ 2023 dated 31.07.2023 and direct the 3rd respondent to provide alternative employment of Lab Assistant or Office Assistant to the petitioner with continuity of service, backwages and all other attended benefits from 31.07.2023 onwards.

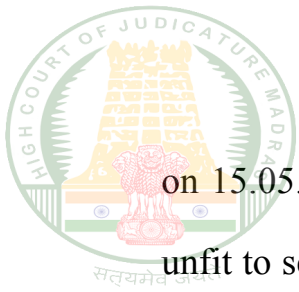
For Petitioner(s): Mr.S.Mukunth,
Sr.Counsel
for M/s. V.Sivakumar

For Respondent(s): Mrs.S.Mythreye Chandru,
Spl G.P.

ORDER

The instant writ petition has been filed to quash the order passed by the 3rd respondent vide Na.Ka.No.6244/A1/2023 dated 31.07.2023 and direct the 3rd respondent to provide alternative employment of Lab Assistant or Office Assistant to the petitioner with continuity of service, backwages and all other attended benefits from 31.07.2023 onwards.

2. The learned counsel for the petitioner would submit that on 23.11.2012, the petitioner was appointed as a night watchman through employment exchange and thereafter, promoted as a driver during the year 2016. From 27.02.2023 to 23.03.2023, the petitioner was on medical leave due to his serious ill health. Thereafter, he was directed to attend the Medical Board

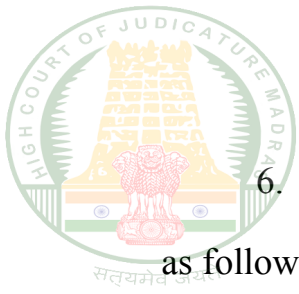


on 15.05.2023 and the Board issued certificate on 22.05.2023 stating that he is unfit to serve as a driver. Following the Medical Board's Report, the respondent has demoted the petitioner to the lower post of night watchman and reduced his pay scale accordingly, which is in contravention of the rights guaranteed under the Rights of Persons with Disabilities Act.

3. The Special Government Pleader appearing for the respondents would contend that the petitioner is medically incapacitated and therefore, his present posting need not be interfered with under judicial review.

4. I have considered the matter in the light of the submissions made by the learned counsels and perused the materials available on records carefully.

5. It is an admitted fact that the petitioner was originally appointed on 23.11.2012 as night watchman and subsequently posted as a driver. It is further admitted fact that the Medical Board has declared him unfit to serve as a driver. That being the case, by applying section 20 of the Rights of Persons with Disabilities Act, the petitioner cannot be discriminated on the ground of his ailment, he suffers. In this connection, it is appropriate to refer Section 20 of the above Act.



6. Section 20 of Rights of Persons with Disabilities Act, 2016 is extracted

as follows :-

WEB COPY“ **20. Non-discrimination in employment.**

1. No Government establishment shall discriminate against any person with disability in any matter relating to employment:

provided that the appropriate Government may, having regard to the type of work carried out in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this Section.

2. Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment too employees with disability.

3. No promotion shall be denied to a person merely on the ground of disability.

4. No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee alter acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay



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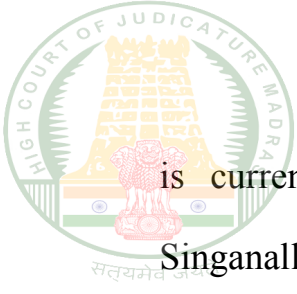
scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

5. The appropriate Government may frame policies for posting and transfer of employees with disabilities. “

7. It is the grievance of the petitioner that, after the Medical Board's Report, he has been demoted to the post of night watchman and has been posted in Pollachi, which is faraway place from his native town of Ondipudur, which according to him is punishment. It is pertinent to mention here that according to Section 20(4), on account of the disability, an employee cannot be discriminated in the employment.

8. In the case on hand, the pay matrix of a night watchman is lower than that of a driver. At this juncture, the learned Special Government Pleader would submit that they would reassign the post according to the availability with pay protection. In this connection, the learned Special Government Pleader submitted a list of available alternative vacant posts before this Court, in which the learned counsel for the petitioner would submit that an Office Assistant post



is currently vacant in the Government Boys Higher Secondary School, Singanallur and he may ordered to be posted there. Therefore, this Court deems it appropriate to direct the respondents to issue a posting order, posting the petitioner at the above school as Office Assistant with pay protection.

9. In such view of the matter, this Court directs the respondent to post the petitioner as Office Assistant in Government Boys Higher Secondary school, Singanallur with pay protection and continuity of service. The respondent is directed to comply with the above direction within a period of four(4) weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

01-07-2025

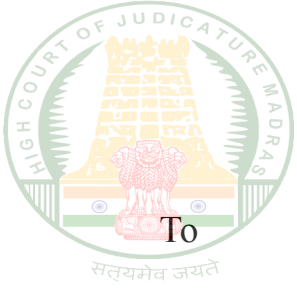
mrp

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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