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W.P.(MD) No.3073 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.3073 of 2021

and

W.M.P.(MD) Nos.2448, 2449 & 2450 of 2021

P.Thanajjevan

... Petitioner

-vs-

- 1.State Express Transport
Corporation (Tamil Nadu) Ltd.
Rep.by its Managing Director
Pallavan Salai, Chennai-600 002
- 2.The General Manager
State Express Transport Corporation
(Tamilnadu) Ltd.
Pallavan Salai, Chennai-600 002
- 3.The Branch Manager
State Express Transport Corporation
(Tamilnadu) Ltd.
Madurai Branch, Madurai
- 4.Thoothukudi Government Medical
College Hospital
rep.by its Dean
Thoothukudi



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5.Abimanyu

... Respondents

[R5 is impleaded vide court order
dated 07.02.2025 in W.M.P.(MD)
No.3314 of 2021]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the proceedings of the second respondent in Memo No. SF043616/MaVa4/SETCTN/2015, dated 04.01.2021 and consequential order of 3rd respondent in K.No.31729/Ma6/SETC/Madurai/20 dated 19.01.2021 in so far as referring the petitioner to the Medical Board of Thoothukudi Government Medical College Hospital, Thoothukudi to ascertain his physical fitness to work as Driver-cum-Conductor, quash the same as illegal and in violation of Rules 575 and 576 of the Tamil Nadu Medical Board as well as the order passed by this Court in W.P.(MD) No.20528 of 2016 dated 01.11.2016 and consequently direct the respondents to forthwith provide light duty / desk work to him and to provide continuity of service, pay protection in the post of Driver-cum-Conductor and to pay backwages payable to him from 06.12.2020 to till the date on which he is provided with alternative light duty.



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For Petitioner : Mr.A.Rahul
For Respondents : Mr.S.C.Herold Singh
Standing Counsel for R1 to R3
Mr.A.Baskaran
Additional Government Pleader for R4

ORDER

This writ petition has been filed challenging the impugned order dated 04.01.2021, passed by the second respondent, and the consequential impugned order dated 19.01.2021, passed by the third respondent.

2. Under the impugned orders, the petitioner has been referred to the Medical Board of Thoothukudi Government Medical College Hospital, Thoothukudi, to ascertain his physical fitness to work as a Driver-cum-Conductor in the respondent – Transport Corporation.

3. Earlier, on account of the fact that the petitioner suffered a stroke and based on the Medical Board's report declaring him as unfit to work as Driver-cum-Conductor, the petitioner has been provided an alternative



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employment in the respondent – Transport Corporation, where he continues to work.

4. Earlier, the petitioner filed a writ petition in W.P.(MD) No.20528 of 2016 challenging the proceedings of the respondent – Transport Corporation referring him to be examined once again by the Rajiv Gandhi Government General Hospital, Chennai, on the ground that prior permission of the Government was not obtained by the respondent – Transport Corporation and also on the ground that there is no error on the conclusion arrived at by the first Medical Board, who had declared the petitioner unfit to work as Driver-cum-Conductor in the respondent – Transport Corporation. The said writ petition came to be allowed by the learned Single Judge of this Court on 01.11.2016.

5. Learned counsel for the petitioner refers to the findings rendered by the learned Single Judge of this Court in Paragraph No.6 of the order dated 01.11.2016 and would submit that the learned Single Judge has quashed the impugned proceedings referring the petitioner to Rajiv Gandhi Government General Hospital, Chennai, for fresh medical examination, on the



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ground that the respondent – Transport Corporation did not obtain prior permission from the Government as per Rules 575 and 576 of the Tamil Nadu Medical Code.

6. Learned counsel for the petitioner would also submit that the petitioner has now become invalid on account of the stroke suffered by him and therefore, he is not in a position to work as Driver-cum-Conductor in the respondent – Transport Corporation, which has also been confirmed by the Medical Board, when the petitioner was first referred to by the respondent – Transport Corporation. According to the learned counsel for the petitioner, there is no infirmity in the findings of the Medical Board, which has declared the petitioner as unfit to work as Driver-cum-Conductor in the respondent – Transport Corporation. Learned counsel for the petitioner would submit that as seen from the Medical Board's report, there is no possibility for the petitioner to improve his health condition to enable him to work as Driver-cum-Conductor.

7. On the other hand, learned Standing Counsel appearing for the respondent – Transport Corporation, would submit that Rules 575 and 576 of



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the Tamil Nadu Medical Code do not apply to the case of the petitioner. According to him, the impugned proceedings came to be passed only after four years when the earlier Medical Board's report declaring the petitioner as unfit for being employed as Driver-cum-Conductor, was obtained and therefore, no prejudice would be caused to the petitioner, if he is directed to be re-examined by the Medical Board. He would submit that as seen from the Rules 575 and 576 of the Tamil Nadu Medical Code, only if a Medical Board's certificate has been issued by any officer and if the same is challenged, the appeal remedy is available as per the Rules 575 and 576 of the Tamil Nadu Medical Code. In the instant case, he would submit that the respondent – Transport Corporation has only directed the petitioner to go before the Rajiv Gandhi Government General Hospital, Chennai, for medical examination, after a lapse of more than four years from the date of the earlier Medical Board's report, which declared the petitioner as unfit to work as Driver-cum-Conductor and therefore, according to him, Rules 575 & 576 of the Tamil Nadu Medical Code do not apply to the case on hand. He would also submit that the order passed by this Court in the earlier writ petition filed by the very same petitioner in W.P.(MD) No.20528 of 2016 has no bearing for the facts of the instant case due to the aforesaid statements.



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8. Rules 575 and 576 of the Tamil Nadu Medical Code read as follows:

“575. Appeal to a Medical Board: Subject to provisions of the paragraphs 490b and 568 above an appeal to a medical board against a Medical Officer's certificate should be allowed only at the request of Head of the Department and subject to the approval of the Director of Health Services and Family Planning / Director of Medical Education.

576. Appeal to a second Medical Board: There should no right of appeal from a Medical Board as it is not always possible to improve on the original Board, and as if it would be difficult to declare even if a second board is constituted, that the second Board is better than the first and should therefore carry more weight. But, if the Government are satisfied on the evidence produced to them of the possibility of an error of judgment in the decision of the first Board, it would be open to Government to allow an appeal to a second Board.”



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9. As seen from the aforesaid Rules, appeal to a Medical Board can be preferred if aggrieved by the Medical Officer's certificate. Insofar as Rule 576 of the Tamil Nadu Medical Code, referred to supra, is concerned, it is made clear that if the respondent – Transport Corporation is unsatisfied with the report of the first Medical Board constituted by them, they will have to seek appropriate permission from the Government for constituting the second Medical Board. However, Rules 575 and 576 of the Tamil Nadu Medical Code will not apply to the cases, where an employee is directed to be re-examined by a Medical Board, after a long lapse of more than four years from the date when the employee was previously examined by the Medical Board and the said Medical Board had declared him to be unfit to work as a Driver-cum-Conductor. It is to be noted that though only due to the fact that the petitioner was once again referred to the Medical Board in the very same year, the petitioner was compelled to challenge the reference to the Medical Board by filing a writ petition in W.P.(MD) No.20528 of 2016. In such an event, necessarily, permission from the Government is required as per Rule 576 of the Tamil Nadu Medical Code.



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10. Learned Single Judge of this Court, in her order dated 01.11.2016 passed in W.P.(MD) No.20528 of 2016, has also rightly held that Government permission is required in cases, where immediately after the first Medical Board's report, the respondent – Transport Corporation had referred the very same employee for further medical examination through another Medical Board constituted by them as they were unsatisfied with the first Medical Board's report. Only under those circumstances, this Court had entertained the writ petition filed by the petitioner and allowed the writ petition. The said order dated 01.11.2016 passed in W.P.(MD) No.20528 of 2016 has no bearing to a case, where the petitioner is being referred to a Medical Board after a lapse of four years from the date when the petitioner was earlier referred to the Medical Board. Any employee, who was declared as unfit earlier by the Medical Board, may have improved his health condition and may have become fit for employment in his / her original post after a lapse of four years. If the petitioner is confident that he is still medically unfit for being employed as Driver-cum-Conductor, no prejudice will be caused to him, if he is medically examined once again by the Medical Board to find out his present health condition and as to whether he can be deployed as a



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Driver-cum-Conductor once again instead of his alternative employment, which he is presently holding. Therefore, Rules 575 and 576 of the Tamil Nadu Medical Code, which the learned counsel for the petitioner relies upon, have no bearing after the lapse of more than four years, when the impugned orders came to be passed referring the petitioner to go before the Medical Board for fresh medical examination to ascertain the petitioner's present health condition and as to whether the petitioner is fit to be re-employed in the post of Driver-cum-Conductor.

11. The impugned orders were passed in the year 2021 and now, we are in 2025 i.e., presently more than nine years have lapsed from the date when the earlier Medical Board had declared the petitioner as unfit to be employed as Driver-cum-Conductor and therefore, to ascertain the truth with regard to the present health condition of the petitioner, this Court does not find any infirmity in the impugned orders referring the petitioner to the Medical Board for fresh medical examination to ascertain his present health condition and to ascertain whether he is fit to be re-employed as Driver-cum-Conductor. However, in order that the petitioner is not harassed, a specific time frame has to be fixed by this Court for completion of the medical



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examination and for submission of the Medical Board's report by the concerned Medical Board indicated in the impugned orders.

12. For the foregoing reasons, this Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. However, in the interest of justice and to protect the interest of the petitioner from being not harassed by the respondents, the following directions are issued:

- (a) The petitioner shall be examined by the fourth respondent, as directed in the impugned orders, within a period of four weeks from the date of receipt of a copy of this order.
- (b) After medical examination of the petitioner, the fourth respondent shall submit a report to the respondent – Transport Corporation within a period of two weeks thereafter and a copy of the same has to be furnished to the petitioner also to enable him to challenge the same, if aggrieved by the said report.



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- (c) The respondent – Transport Corporation shall also take a decision in accordance with law with regard to the petitioner's employment based on the Medical Board's report, within a period of six weeks thereafter.

No costs. Consequently, connected miscellaneous petitions are closed.

24.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
The Dean,
Thoothukudi Government Medical
College Hospital,
Thoothukudi.



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ABDUL QUDDHOSE, J.

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