



W.P.(MD)No.26560 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.26560 of 2024

and

W.M.P.(MD)Nos.22521, 22523, 22525 and 23725 of 2024

Ganesan

... Petitioner

Vs.

The Commandant,
Tamil Nadu Special Police Force
11th Battalion,
Mottamalai Camp,
Rajapalayam,
Virudhunagar District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in Na.Ka.No.D5/4212/2021 and Arasu Anai No.537/2024 on the file of the respondent office dated 31.10.2024 and quash the same as illegal and consequentially direct the respondent to permit the petitioner to continue in the post of Nayak as an alternative employment without affecting his scale of pay and all other attendant benefits with pay



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protection, continuity of service in terms of Section 20(4) of the Rights of Persons with Disabilities Act, 2016 within a stipulated time frame that may be fixed by this Court.

For Petitioner : Mr.R.Karunanidhi

For Respondent : Mr.D.Sasikumar,
Additional Government Pleader

ORDER

The present Writ Petition has been filed by a Nayak working in Tamil Nadu Special Police Force 11th Battalion, Mottamalai Camp, Rajapalayam, Virudhunagar District, challenging the order passed by the respondent dated 31.10.2024, wherein, he was declared as medically unfit for service and he was discharged from his duties.

2. A perusal of the records reveals that the writ petitioner was appointed as a Police Constable on 01.04.2010 at 13th Battalion, Poonthamalli, Chennai. While he was on election duty in April-2011, he met with an accident, in which, he had sustained injuries in his head and eyes. A case was registered in Crime No.196 of 2011 on the file of B-1 Thiruvalluvar Town Police Station.



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3. The writ petitioner got first aid at the Government Hospital, Thiruvalluvar and later he was shifted to Sri Ramachandra Hospital, Chennai for further treatment. The writ petitioner was diagnosed with large extradural hemorrhage and he had undergone Tracheostomy. The writ petitioner was discharged from the hospital on 11.05.2011. After the accident, the writ petitioner's eye sight was not good and he could not perform his regular duties as a Police Officer. The writ petitioner was assigned with light duty on 12.03.2013 considering his health status. The writ petitioner has been discharging the said light duty for the past 10 years. The writ petitioner was promoted as a Nayak on 18.03.2014.

4. The writ petitioner was referred to Medical Board attached to Virudhunagar District Government Hospital and it was certified that the writ petitioner is 100% visually impaired. The writ petitioner was again referred to another Medical Board on 02.05.2024, wherein, it was certified that the writ petitioner has completely lost his vision. Pursuant to the said certificate, the present impugned order has been passed on 31.10.2024 declaring him medically unfit for service and he has been discharged from the post. Further the writ petitioner has already been



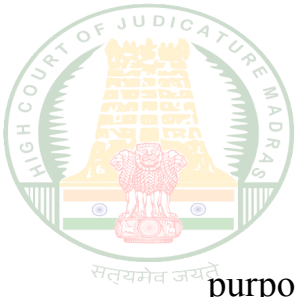
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directed to vacate the quarters and hand over the keys. The said order is under challenge in the present writ petition.

5. According to the learned counsel appearing for the writ petitioner, the writ petitioner has sustained serious injuries in his eyes while he was on election duty. That apart, the writ petitioner is entitled to the benefits under Section 20(4) of Rights of Persons With Disabilities Act, 2016. When the writ petitioner has sustained some disabilities while he is in service, he can never be discharged from service and he should be provided with alternative appointment with pay protection till his superannuation.

6. Per contra, the learned Additional Government Pleader appearing for the respondents relying upon the counter had contended that the writ petitioner is not entitled to the benefits under Section 20(4) of Rights of Persons With Disabilities Act, 2016 in view of the fact that the writ petitioner is a member of the uniformed services and he could not be provided with any alternative employment other than policing. According to him, the writ petitioner being appointed exclusively for the



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purpose of policing and therefore no other alternative light duty could not be granted to him.

7. The learned Additional Government Pleader appearing for the respondents had further contended that the writ petitioner having 100% loss of vision in both the eyes, it is very difficult for the Department to provide any other alternative employment especially in uniformed services. Hence, he prayed for sustain the order passed by the respondent.

8. I have carefully considered the submissions made on either side and perused the records.

9. It is not in dispute that the writ petitioner has lost his vision in both the eyes while he is in service.

10. Section 20 of Rights of Persons With Disabilities Act, 2016 is extracted as follows:-

“20. Non-discrimination in employment.



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(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 on 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 to 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 after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay 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,



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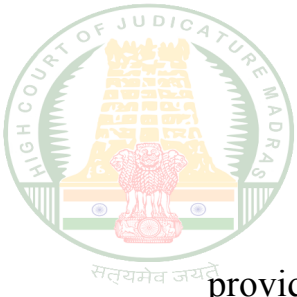
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whichever is earlier.

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

11. The proviso to Section 20(1) of Rights of Persons With Disabilities Act, 2016 empowers the appropriate Government to exempt any establishment by way of notification from the provisions of Section 20 of the said Act. However, no such notification has been placed before this Court, exempting the Police Department from the purview of Section 20 of the said Act. Therefore, there cannot be any doubt that the above said Section is applicable to the uniformed services also.

12. As per Section 20(4) of Rights of Persons With Disabilities Act, 2016, the Government establishment cannot dispense with the services of an employee who had acquired disability during his service. In the present case, admittedly, the writ petitioner has acquired disability while he is in service. Even though the writ petitioner may be found to be medically unfit for policing, in the view of Section 20(4) of Rights of Persons With Disabilities Act, 2016, the writ petitioner has to be



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provided with other alternative employment with pay protection.

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13. In view of the above said circumstances, the order impugned in the present writ petition is set aside and the respondent is directed to comply with the provisions of Section 20(4) of Rights of Persons With Disabilities Act, 2016 and reinstate the writ petitioner in service with continuity of service and pay protection and continue to provide alternative light duty to the writ petitioner and pass orders within a period of twelve weeks from the date of receipt of a copy of this order.

14. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.01.2025

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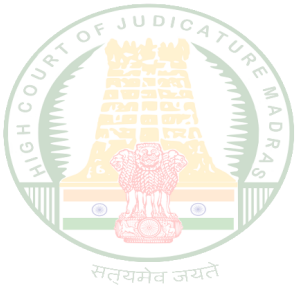


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To

- 1.The Commandant,
Tamil Nadu Special Police Force
11th Battalion,
Mottamalai Camp,
Rajapalayam,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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