

THE HON'BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION No.15180 of 2014

AND

CONTEMPT CASE No.1461 of 2014

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COMMON ORDER:

This Writ Petition No.15180 of 2014 is filed under Article 226 of the Constitution of India seeking a writ of mandamus declaring the action of the respondents in not allotting alternative post of desk job to the petitioner as per the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. This Contempt Case No.1461 of 2014 is filed under Sections 10-12 of Contempt of Courts Act to punish the respondents as per the provisions of Contempt of Courts Act for violating the orders of this Court passed in W.P.No.15180 of 2014, dated 11.06.2014.

3. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the respondents in both the cases.

4. The petitioner was appointed as driver in the respondents' corporation on 13.04.1998 and his services were regularized with effect from 01.08.2000. During the medical examination conducted in the month of February, 2011, it was found that there was defect in the vision of left eye. He was referred to A.P.S.R.T.C. Hospital, Machilipatnam. After medical examination, it was found that the petitioner was unfit to perform duty as driver and a certificate was issued to that effect on 12.03.2011.

Thereafter, the petitioner was treated for some time in NIMS Hospital. Subsequently, he was sent to APSRTC Hospital, Tarnaka whereat a certificate was issued stating that the petitioner was fit to discharge the duties as driver. Accordingly, the petitioner reported to duty on 20.12.2011. Subsequently, the petitioner was again declared unfit for the post of driver on 22.04.2014 in the medical examination.

5. The respondents' Corporation filed counter contending *inter alia* as follows:

The petitioner was declared unfit for the post of driver due to defective distant vision as per the medical certificate dated 12.03.2014. Basing on the said certificate the petitioner was sent for medical examination and the medical Board, A.P.S.R.T.C. Tarnaka Hospital declared the petitioner unfit for the post of Driver in A1 category, but he was found fit for alternative employment in the post of Shramik in X2 category on 25.06.2014. It is further submitted by the Corporation that the petitioner has been provided alternative employment as Shramik by order dated 28.07.2014 as he is fit for the said post, but he refused to join duty as Shramik. It is submitted that neither the petitioner submitted the disability certificate from the competent authority nor his services were dispensed with to attract the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The petitioner was declared unfit for the post of driver in A1 category in the periodical medical examination, therefore, he was provided with alternative employment as Shramik as he was declared fit for the same. Therefore, the petitioner has to accept the offer of alternative employment as shramik and perform his duties accordingly. But, the petitioner is refusing to join duty. Therefore, the interim order dated 11.06.2014 passed by this Court in W.P.No.15180 of 2014 needs to be vacated, otherwise, the respondents Corporation will be put to loss. Contending as above, the respondents sought to dismiss the writ petition.

6. This Court passed the interim order dated 11.06.2014 in W.P.No.15180 of 2014 as under:

"The learned Standing Counsel seeks further time to get instructions and to file counter.

Post in two weeks.

In the meanwhile, there shall be an interim direction to the respondent authorities to

continue to pay the last drawn wages to the petitioner as had been paid prior to 09.01.2014 when the petitioner is said to have been medically invalidated.”

7. According to the petitioner in spite of passing of the said order, the respondents' corporation did not implement the orders nor paid the salary to the petitioner and therefore, filed contempt case alleging willful disobedience on the part of the respondents and to punish them as per the provisions of the Contempt of Courts Act. Thereafter, the respondent-Corporation filed vacate stay petition along with the counter.

8. Considering the submissions made by the learned Standing Counsel for the respondents and also the learned counsel appearing for the petitioner, the writ petition is allowed directing the respondents Corporation to provide the petitioner any alternative job involving discharge of light duties after subjecting him to medical examination, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is directed to make a representation with regard to payment of salary and upon receiving the said representation, the respondents are directed to consider the representation and pass appropriate orders as per his entitlement.

9. Accordingly, the writ petition is allowed and the contempt case is closed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in these cases shall stand closed.

R.KANTHA RAO,J

Date:13.10.2015

ccm

THE HON'BLE SRI JUSTICE R.KANTHA RAO

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