

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.24560 of 2015

Order:

Heard Sri M.Pitchaiah, learned counsel appearing for the petitioner and Sri M.Durga Prasad, learned Standing Counsel for the respondents-APSRTC.

2. The petitioner is a driver in the respondents-Corporation. He was appointed on 02-10-2010.

In the periodical medical examination, he was declared unfit as a driver by the Medical Officer of the Corporation Hospital, Guntur on 19-01-2015. Subsequently, the Certificate dated 19-01-2015 issued by the Medical Officer, Guntur declaring the petitioner unfit to the post of driver was upheld by the Medical Board of the Corporation, Tarnaka, Hyderabad. The petitioner was declared unfit due to the colour blindness for A-1 Category (driver). Subsequently, by proceedings dated 07-7-2015, the respondents-Corporation retired the petitioner on medical grounds with effect from 29-4-2015. The petitioner, therefore, filed the present writ petition to issue a direction to the respondents to provide him alternative employment and also to pay him the wages for the interregnum period i.e. from 19-01-2015 till providing alternative employment.

3. It is now well settled that if an employee acquires disability while in service, the employer is under an obligation to provide him suitable alternative employment

by virtue of the provisions of the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995 (the Disabilities Act, for short). This Court after going through some judgments of the Supreme Court as well as of the Division Bench of this Court took the view in W.P.No.25577 of 2014 and batch, dated 23-7-2015, that if a person who is in service acquires any sort of disability, the employer is under a legal obligation to provide him alternative employment when he was declared unfit to perform the job he was doing prior to acquiring the disability. Therefore, the petitioner who acquired colour blindness and was declared unfit to perform the job of driver is entitled for alternative employment in terms of Section 47 of the Disabilities Act. Further, it is also well settled that the petitioner shall be given the same pay scale of the driver even though he was provided with alternative employment in a lower cadre. Further, the petitioner is also entitled for the salary of the interregnum period i.e. from the date on which he was initially declared unfit till the date on which he is provided with alternative employment.

4. Consequently, the writ petition is disposed of directing the respondents-Corporation to provide the petitioner with alternative employment by maintaining the pay scale of driver and also pay him the salary for the interregnum period i.e. from 19-01-2015 till he is provided with alternative employment. The entire exercise shall be completed by the respondents-Corporation within a period of

8 (eight) weeks from the date of receipt of a copy of this order. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

27th August, 2015.
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