

HON'BLE SRI JUSTICE R.KANTHA RAO

W.P.No.30872 of 2015

ORDER:

Heard learned counsel appearing for the petitioner and learned Standing counsel for TSRTC appearing for respondents 1 to 3.

This writ petition is filed seeking to declare the action of the respondents in not fixing the pay of the petitioner in the post of Driver, in the alternative post of Shramik and not extending the service benefits, as arbitrary, illegal and contrary to Section 47 (1) of the Persons with Disabilities Act, 1995.

Initially, the petitioner was appointed as Driver in the respondent-Corporation on 10.02.1990, on daily wage basis. His services were regularized on 1.2.1991. While on duty, he suffered from chest pain on 21.10.2013 and underwent heart surgery at Sun Shine Hospital on 11.11.2013. Thereafter, the petitioner was declared unfit for the post of Driver vide Medical Certificate dated 12.03.2014. On appeal, the petitioner was examined by the Medical Board on 21.05.2014 and was declared unfit for the post of Driver in A1 category, and fit for alternative employment. Thereafter, the 2nd respondent

accorded sanction to appoint the petitioner in the alternative post of Shramik. Accordingly, the petitioner joined duty in the alternative post of Shramik on 27.01.2015.

Learned counsel appearing for the petitioner submits that while providing him with alternative employment as Shramik, the respondent-Corporation has not protected the pay scale of the petitioner in the post of Driver. He further submits that the petitioner is deprived of the service benefits accrued in the post of Driver, which is contrary to Section 47 (1) of the Persons with Disabilities Act, 1995. He also submits that similarly situated persons were given pay protection in the scale of Driver while appointing them in the alternative post and the interregnum period was reckoned as service with pay and allowances and their seniority was also continued in the post of Driver for next promotion.

The issue involved in this writ petition is squarely covered by the judgment of this Court in W.P.No.22472 of 2012, dated 04.09.2012, which was confirmed by the Division Bench of this court in W.A.No.696 of 2013.

Following the same, the Writ Petition is disposed of in terms of the order dated 4.9.2012 passed in W.P.No.22472 of 2012. The respondent-Corporation is directed to fix the pay of the petitioner in the pay scale of Driver and the interregnum period from 12.03.2014 to 27.01.2015 shall be treated as on duty for the purpose of the service benefits. No costs.

As a sequel, Miscellaneous Applications, if any, shall stand closed.

JUSTICE R.KANTHA RAO

22nd September, 2015
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