

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.9636 of 2013

Order:

Heard Sri S.D. Gowd, learned counsel appearing for the petitioner and Sri C.Sunil Kumar Reddy, learned Standing Counsel for APSRTC-respondents 1 to 3.

2. It is agreed by both the learned counsel that the issue involved in the present case is squarely covered by the common order dated 23-7-2015 in W.P.No.25577 of 2014 and batch passed by this Court, wherein it was held as follows:

“In view of the language employed in Section 47 of the Act, 1995 that a person who in service acquires any sort of disability, the employer is under legal obligation to provide him alternative employment when he was declared unfit to do the job in which he was employed and he is capable of performing some other job. However, the learned Standing Counsel has brought to the notice of this Court a circular issued by the respondent corporation on 28.11.1981. As per the said circular in case a driver who is declared unfit due to colour blindness, as far as possible day duties be allotted to such driver subject to availability of such duties at the depots, without disturbing the existing schedules. If there is no possibility of providing day duties, he shall be offered alternative job of direct recruitment post (lower post or equivalent post and not higher post) subject to availability of vacancy, suitability to hold the post and also subject to medical fitness. Therefore there need not be any doubt in regard to the fact that if a driver working in the Corporation acquires colour blindness, he is entitled for alternative employment in terms of Section 47 of the Act 1995, which is also made clear by the Supreme Court in **KUNAL SINGH**'s case (2 *supra*).

For the foregoing reasons, it is not possible for this Court to accept the contention urged by the learned Standing Counsel for the respondents that colour blindness is not disability as defined under Section 2 of the Act, 1995 and the petitioners are not entitled for any alternative employment. The writ petitions are therefore must succeed. The impugned orders passed by the respondent corporation retiring the petitioners from service are set aside and the respondents are

directed to provide alternative employment to the petitioners.”

3. In view of the above, this writ petition is allowed in terms of the said common order with the direction that the observations made therein shall be read as part of this order. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

07th October, 2015.

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