

HON'BLE SRI JUSTICE R.KANTHA RAO

W.P.No.30847 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 in 1989 on daily wage basis. His services were regularized on 1.5.1990. While on duty, he was injured due to stone throwing incident wherein the glass pieces pierced into the left eye of the petitioner due to which the petitioner lost vision in his left eye. Thereafter, the petitioner was declared unfit for the post of Driver *vide* Medical Certificate dated 3.6.2014. The Medical Board also examined the petitioner on 3.9.2014 and declared him 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 *vide* order dated 13.10.2014. Accordingly, the petitioner joined duty in the alternative post of Shramik at Dilshukhnagar Depot on 15.10.2014.

Learned counsel appearing for the petitioner submits that while providing him 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 03.06.2014 to 15.10.2014 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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