

HON'BLE SRI JUSTICE R.KANTHA RAO

W.P.No.16012 of 2015

ORDER:

Heard learned counsel appearing for the petitioner and learned Standing counsel for APSRTC appearing for respondents 1 to 4.

This writ petition is filed seeking to declare the action of the respondents in not fixing the pay of the petitioner, as fixed in the post of Driver, in the alternative post of Record Tracer 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 17.09.2006. While the petitioner was on duty on 31.10.2012, the bus met with an accident and the petitioner suffered fracture to his right hand and dislocation of right shoulder joint. Thereafter, the petitioner was declared unfit for the post of Driver by the Medical Officer, APSRTC Hospital, Tarnaka, Hyderabad. The Medical Board, Tarnaka, declared the petitioner unfit for the post of Driver, and fit for alternative employment. On the representation submitted by

the petitioner, the 3rd respondent appointed him as Record Tracer *Vide* proceedings dated 7.11.2013.

Learned counsel appearing for the petitioner submits that while providing him alternative employment as Record Tracer, 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 22.2.2013 to 7.11.2013 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,J

23rd June, 2015
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