

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1472/2016
(SURESH KISAN DAHEKAR **VERSUS** M.S.R.T.C., BHANDARA)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.A. Nerkar, counsel for the petitioner.
Shri V.G. Wankhede, counsel for the respondent.

**CORAM : SMT.VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.**

DATE : APRIL 5, 2016.

By this petition, the petitioner challenges the order of termination dated 23.10.2015 passed by the respondent-Maharashtra State Road Transport Corporation, Bhandara.

It is the case of the petitioner that since the petitioner is not able to perform the duties as a Driver in the Maharashtra State Road Transport Corporation and the Medical Board has opined in that regard, it was necessary for the respondent-Corporation to permit the petitioner to work on a suitable post by protecting his pay-scale and service benefits. It is stated that the certificate issued by the Medical Board clearly shows that the petitioner is not fit for the Driver's job but, is fit for table work. It is stated that in view of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the petitioner could be shifted to some other post with the same pay-scale and service benefits.

Shri Wankhede, the learned counsel for the respondent-Corporation, states on instructions and by relying on the affidavit-in-reply filed on behalf of the respondent-Corporation that the respondent-Corporation was ready to give a job requiring table work to the petitioner but, the petitioner was not ready to accept the same. It is stated that the petitioner asked the

respondent-Corporation to grant the promotional post of Traffic Controller to the petitioner. It is stated that for promotion on the post of Traffic Controller, passing of a departmental examination and selection through competent selection committee is necessary. It is stated that if the petitioner is ready to accept the alternate post-job, on the same pay-scale, the respondent-Corporation grant the alternate post-job to the petitioner.

Shri Nerkar, the learned counsel for the petitioner, states that the grievance of the petitioner would stand redressed if the respondent-Corporation grants a post-job requiring table work to the petitioner by protecting his pay-scale.

In view of the statement recorded hereinabove, the impugned order is quashed and set aside. The respondent-Corporation is directed to provide an alternate post-job to the petitioner, as early as possible. The respondent-Corporation is directed to pay the salary to the petitioner from 01.05.2016 even if the job is not provided to the petitioner till that date. The petitioner would not be entitled to claim the arrears of salary for the period from the date of the impugned order of termination till the 30th of April, 2016 as the respondent-Corporation was ready to provide an alternate post-job to the petitioner but, the petitioner was not ready to accept the same. However, the petitioner would be entitled to the continuity of service and to all the benefits flowing from the order of continuity of service, though actual monetary benefits would be payable only from 01.05.2016.

The writ petition is disposed of in the aforesaid terms with no order as to costs.

JUDGE

JUDGE