

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

WRIT PETITION NO. 3090/2016

(RAMSUMER JAGANNATH PRASAD VERSUS W.C.L. KAMPTTEE & OTHERS)

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

Court's or Judge's orders

None for the petitioner.

**CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATE : JULY 15, 2016.

On the previous date of hearing, we had adjourned the matter for today at the request on behalf of the learned counsel for the petitioner, as a last chance. None appears for the petitioner, today.

We have perused the writ petition as also the prayer made therein. By this writ petition, the petitioner challenges the orders passed by the respondents, dated 17.05.2003 and 01.06.2003 permitting the petitioner to work on surface duty as per the request made by the petitioner.

The petitioner joined the services of the respondent as a Loader in Category-V, on 17.09.1984. It is the case of the petitioner that the petitioner met with an accident while climbing the staircase on 28.03.2001 and sustained injuries. The petitioner has annexed certain medical reports to the writ petition to substantiate the injuries that were then sustained by the petitioner. It is the case of the petitioner that the petitioner suffered from partial paralysis for some time and after he was well, he requested the respondents to give him lighter work and surface duty. It appears that at the request of the petitioner, the petitioner was granted surface duty from time to time for a period of fifteen days and subsequently, by the impugned orders, the petitioner was provided surface duty after decategorizing him.

Though the orders were passed on 17.05.2003 and 01.06.2003, the petitioner had challenged the said orders by filing the writ petition on 25.02.2016. The petitioner has not explained the inordinate delay in filing the writ petition. In pursuance of a Circular-Office Order, dated 25.11.2014, the petitioner's services were converted from PR employee to TR/MR employee to the benefit of the petitioner. The petitioner has now claimed the protection in the category in which he actually worked before 2003, with effect from the dates on which the impugned orders were passed.

We are not inclined to grant the relief, as sought by the petitioner. The petitioner has placed reliance on the provisions of the Persons with Disabilities, Equal Opportunities, Protection of Rights and Full Participation Act, 1995 to seek the relief claimed. Under the Persons with Disabilities, Equal Opportunities, Protection of Rights and Full Participation Rules, 1996, it would be necessary for the petitioner to secure a disability certificate as is contemplated by the said rules. No such certificate is annexed to the petition. In the absence of any certificate showing the extent of the disability suffered by the petitioner in the year 2003, the petitioner cannot seek the benefit of the provisions of the Act of 1995 and the Rules framed thereunder. It is only on the request of the petitioner, that the respondents had provided lighter surface duty to the petitioner after decategorization. Though the petitioner has annexed the communications that are addressed by the respondents to the petitioner thereby accepting his requests for grant of lighter surface duty, it is surprising that the communications addressed by the petitioner making such requests, are not placed on record. It cannot be gauged either from the petition or from the documents annexed thereto, that the petitioner was suffering from a disability as defined under the provisions of Section 2(i) of the Act.

Since the petitioner is not entitled to the relief claimed in the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

APTE

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

Uploaded by: Rohit D. Apte.

Uploaded on : 19.07.2016.