

THE HON'BLE SRI JUSTICE A.V. SETHA SAI

WRIT PETITION No.12265 OF 2016

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue an appropriate writ or direction, particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents for not providing suitable alternative employment as illegal, arbitrary, capricious and in violation of Section 47 of The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and also in violation of Art. 14, 16 & 21 of the Constitution of India and consequently the petitioner pray this Hon'ble Court may be pleased to direct the respondents to adjust him in the post of Record Tracer, Traffic Guide, Mike Announcer or any other suitable employment basing on the petitioner disability duly treating the period from the date of declaring the petitioner unfit i.e., 22.09.2015 onwards as on duty for all purposes along with all consequential benefits including salary by counting the seniority in driver post duly protecting the driver scale in the interest of justice and fair play.”

2. When the matter is called, it is represented by the learned counsel for the petitioner that the issue in the present Writ Petition is squarely covered by the orders of this Court in W.P.No.36337 of 2012 and batch, dated 29.01.2016. The operative portion of the said order at Paragraph No.63 of the said order reads as under:

“63. The points are answered in favour of the petitioners. The Writ Petitions are allowed. The following directions are issued:

- 1) All the drivers who are not assigned work after they were declared as medically unfit are entitled to pay and allowances attached to the post of Driver till they were retired from service / alternative job is provided to them. They shall be paid arrears of pay and allowances with 8% interest from the due date till the date of payment. This direction is general and applicable to all Drivers. The Corporations shall undertake review of all such claims and shall ensure that no driver is denied pay and allowances on this issue. The order shall be complied within eight (8)*

weeks from the date of receipt of the copy of the Order.

- 2) Petitioners and all Drivers who are declared as unfit to drive on account of 'acquiring disability' while in service are entitled to provision of alternative job as a matter of course. The Corporations shall endeavor to provide alternative job of the same status. For any reason, alternative job of the same status is not possible and the drivers are adjusted in any other post, they shall be paid the same pay and allowances as were paid to them as Drivers including the annual increments.*
- 3) If alternative job cannot be provided, the Drivers shall be kept in a supernumerary post until a suitable post is available or till he attains the age of superannuation whichever is earlier and shall be paid pay and allowances of the post of Drivers until they attained the age of superannuation.*
- 4) These directions are applicable to all similarly situated drivers."*

3. Following the above said common order and for the reasons recorded therein, this Writ Petition is also allowed, in terms of the above said common order.

4. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

20.04.2016

SS

Note: Copy of the order in W.P.No.36337 of 2012 and batch, dated 29.01.2016, shall be annexed.

B/o. SS