

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

WRIT PETITION No.5164 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 order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd Respondent in retiring the petitioner from service vide order No.P2/469(2)/2015-BKP dated 27.01.2016 on medical grounds without providing the alternative employment is arbitrary, unjust, contrary to Memorandum of Settlement dated 17.12.1979 entered into with Recognized Union Under Section 12(3) of Industrial Disputes Act, 1947, and Section 47 of the Persons with Disabilities Act, 1995, discriminatory and in violation of Article 14 and Article 21 of the Constitution of India, set-aside the same and consequently direct the Respondents to provide suitable alternative post of Shramik to the petitioner with all consequential benefits including payment of salary from the date of medical unfit till the date of providing alternative post, in the interest of justice and fair play.”

2. When the matter is called, it is represented by 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.25577 of 2014 and batch, dated 23.07.2015 and a copy of the same has also been placed on record along with the writ petition as a material paper.

3. Following the above said order and for the reasons recorded therein, there shall a following similar order in this writ petition also.

“It is not possible for this Court to accept the contention urged by the learned Standing Counsel for the respondents that colour blindness is not disability as defined under section 2 of the Act,1995 and the petitioners are not entitled for any alternative employment. The writ petitions are therefore must

succeed. The impugned orders passed by the respondent corporation retiring the petitioners from service are set aside and the respondents are directed to provide alternative employment to the petitioners.”

4 . Accordingly, the Writ Petition is allowed. 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

10.03.2016

SS

*Note: Copy of the order in W.P.No.25577 of 2014,
dated 23.07.2015, shall be annexed.*

B/o. SS