

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.14028 of 2016

ORDER:

The petitioner was appointed as Driver in the respondent Corporation in the year 1998 on daily wage basis and later his services were regularized in the year 2007. While he was in service, he suffered with colour blindness and could not discharge his duties as Driver. Therefore, he submitted an application on 12.08.2015 to provide alternate employment in terms of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Participation) Act, 1995 (for short, 'the Act'). Pursuant to the said application, the petitioner was referred to the respondent Corporation Dispensary Adilabad, where he was declared as unfit for Driver in A-1 Category vide order dated 11.08.2015. Aggrieved by the same, the petitioner filed appeal, wherein also he was declared as unfit for the post of Driver in A-1 category. When the 3rd respondent passed the impugned order on 15.03.2016 ordering the petitioner to retire from service with effect from 23.12.2015 on medical grounds, the present Writ Petition is filed.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondent – Corporation.

There is no dispute that the petitioner was found unfit for the post of Driver in A-1 category and he was denied alternate employment on the ground that the reason of colour blindness would not enable him to get alternate employment. The disability of colour blindness merely disabled the petitioner from performing duties of Driver in A-1 category, but not disabled him to get alternate employment. The issue with regard to the applicability of the provisions of the Act is no longer *res integra* as this Court in W.P.No.36337 of 2012 and batch, dated 29.01.2016, held that the provisions of the Act are applicable to the persons in service, who

suffered with disability.

Hence, the impugned order dated 15.03.2016 is set aside and the matter is remanded to the 3rd respondent for reconsideration of the case of the petitioner for providing alternate employment or payment of salary in terms of the judgment in W.P.No.36337 of 2012 and batch, dated 29.01.2016, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is accordingly allowed. There shall be no order as to costs.

The miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date:07.06.2016

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