

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

W.P.No.9439 of 2015

ORDER:

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This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“To issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents 1 & 2 in rejecting the petitioner request through Lr.No.P2/754(1)/2014-PO-IV, dated 04-02-2015 issued by the 1st respondent and consequential Proc.No.P2/468(1)/2014-RM:A, dated 17-02-2015 issued by the 2nd respondent instead of providing suitable post i.e. Record Tracer, Controller, Booking Clerk and Assistant Depot Clerk (ADC) under Physical Handicapped Quota or any Office Work, as the petitioner is suffering with heart problem and both legs were fractured and left leg both bones broken due to accident, as per Section 47 of Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act 1995, on medical ground and contrary to Circular No.PD.17/2014, dated 26-05-2014, is wholly illegal, unjust and arbitrary and in violation of Articles 14, 16 and 21 of Constitution of India and in violation of principles of natural justice and consequently set aside Lr.No.P2/754(1)/2014-PO-IV, dated 04-02-2015 issued by the 1st respondent and consequential Proc. No.P2/468(1)/2014-RM:A, dated 17-02-2015 issued by the 2nd respondent and further direct the respondents to provide suitable post taking into account of the petitioner health condition i.e. Record Tracer, Controller, Booking Clerk and Assistant Depot Clerk (ADC) under Physical Handicapped Quota or any Office Work, in the existing vacancy or creating supernumerary post in the scale of Conductor by paying all the benefits as per Act as otherwise petitioner and his family will suffer serious loss and grate hardship”.

2. The petitioner herein is presently working as Shramik in A.P. State Road Transport Corporation, Kadiri Depot (3rd respondent herein). When the petitioner was previously working in Respondent Corporation, he sustained fractures in an accident. The Nizam's Institute of Medical Sciences issued a Medical Certificate on 23.7.2009 stating that the petitioner is fit for ground duty only. Subsequently, after examining the

petitioner, the Superintendent, APSRTC Hospital, Tarnaka vide proceedings No.SA4/14 (E.402390)/10-TH dated 24.7.2010 certified the disability of the petitioner as 40%. Subsequently, the petitioner filed W.P.No.36828 of 2014 before this Court praying for a direction to the respondents to provide alternative post on regular basis and this Court on 17.12.2012 disposed of the said writ petition with a direction to the Respondent Corporation to provide alternative job to the petitioner on the ground of his medical invalidation. Thereafter, the office of the Regional Manager vide proceedings No.P2/468(1)/2014-RM'A' dated 4.4.2014 provided alternative job of Shramik to the petitioner by protecting his pay and posted at Kadiri Depot. Thereafter, on 27.8.2014 the petitioner herein submitted a representation to the Regional Manager, APSRTC, Ananthapur requesting for providing alternative job of Booking Clerk/Record Assistant/Controller/Assistant Depot Clerk, while explaining difficulties in discharging the duties of Shramik. Subsequently, the petitioner filed W.P.No.36828 of 2014 before this Court and this court on 2.12.2014 in W.P.M.P.No.46092 of 2014 passed the following interim order:

“There shall be interim direction to the respondents to consider the representation dated 27.8.2014 made by the petitioner, whereunder he sought to provide a suitable post under physically handicapped quota within a period of six weeks from the date of receipt of a copy of this order”.

3. In pursuance of the above said interim order granted by this Court, the Chief Personnel Manager in the office of Managing Director, Bus Bhavan, APSRTC, Hyderabad vide proceedings No.P2/754(1)/2014-PO-IV dated 4.2.2015 rejected the request of the petitioner for change of alternative employment from Shramik to other posts. As a sequel to the said order, the Regional Manager vide proceedings No.P2/468(1)/2014-RM:A dated 17.2.2015, rejected the request of the petitioner. The said order passed by the respondent authorities is under challenge in the present writ petition.

4. Heard the learned counsel for the petitioner and the learned

Standing Counsel for the Respondent Corporation, apart from perusing the material available on record.

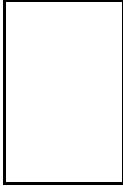
5. According to the learned counsel for the petitioner, the impugned rejection order is highly illegal, arbitrary, unreasonable and opposed to the instructions of the A.P. State Road Transport Corporation issued vide Circular No.PD-17/2014 dated 26.5.2014. To sustain his submissions, the learned counsel for the petitioner invites the attention of this Court to paragraph 11 of the said Circular which states that the Physically Handicapped (PH) Candidates are not eligible for the post of Shramik. In fact, the said circular was also brought to the notice of the Regional Manager vide representation dated 27.8.2014 submitted by the petitioner. The impugned order passed by the respondents does not refer to the said circular.

6. On the contrary, it is submitted by the learned Standing Counsel for the Respondent Corporation that unless there is a request by the petitioner herein for referring his case to the Medical Board and unless the medical authorities issue the necessary certificate, the claim of the petitioner cannot be considered. On noticing the said submission, it is submitted by the learned counsel for the petitioner that the petitioner will make an application before the respondents herein and the same may be examined and appropriate action be taken in accordance with law by fixing some time frame. The said request is not opposed by the otherside.

7. In view of the above reasons, the writ petition is disposed of, keeping it open to the petitioner herein to make necessary application, requesting the respondent authorities to refer his case to the Medical Board within a period of one month from the date of receipt of this order and if any such application is filed, the same may be considered and appropriate action be taken in accordance with law within a period of one month thereafter. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 6.4.2016
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