

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

WRIT PETITION No.8291 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 that the action of the Respondents in not considering the claim of the petitioner for the alternative post of Shramik on being found unfit for the post of Driver on the ground that the petitioner is not suitable for all categories of posts, is arbitrary, unjust, contrary to Section 47(1) 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 and pass such other order or orders just and necessary in the circumstances of the case.”

2. Heard Sri A.G.Satyanarana Rao, learned counsel, appearing for the petitioner and Sri A.Rama Rao, learned Standing Counsel, appearing for the respondents.

3. When the matter is called, it is submitted by learned counsel for the petitioner so also the learned standing counsel that the issue in the present writ petition is squarely covered by a common order of this Court in writ petition Nos.36337 of 2015 and batch, dated 29-01-2016 and a copy of the same is also filed along with the writ petition as material paper.

4. Following the above said order and for the reasons recorded therein, following similar order is passed in the present Writ Petition

also.

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 a 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 endeavour 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.*
5. With the above directions, 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

15.03.2016
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