

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.27299 of 2016

ORDER :

Heard the counsel for petitioner, and Sri A. Ravi Babu, counsel for respondents.

2. A notification was issued in 2013 to fill up (113) vacant posts of driver in the 3rd respondent-region. The petitioner applied for the same. He was selected by the Selection Committee, and he was placed at Serial No.3 in the waiting list of the Provision Selection List notified on 11.06.2013. The petitioner was medically examined and it was found that his vision was not adequate.

3. Petitioner filed an appeal before the respondents and sought examination by the Hospital maintained by the Andhra Pradesh State Road Transport Corporation at Tarnaka on 17.02.2014. The petitioner was then asked to attend the said Hospital on 12.06.2014.

4. According to petitioner, he attended the Andhra Pradesh State Road Transport Corporation Hospital at Tarnaka, Hyderabad on 12.06.2014, but it was informed that he should come after one week. The petitioner contends that he fell sick and could not report to the said Hospital after one week. The petitioner contends that he again visited the said Hospital after one month in July, 2014, but the officers at the Hospital instructed the petitioner to again get a letter from the

3rd respondent to undergo test for his eye-sight. The petitioner alleged specifically that he had been approaching the 3rd respondent since then, but he was dodging the matter. The petitioner addressed a letter dt.03.08.2015 requesting the 3rd respondent to send him for medical check-up, but the 3rd respondent responded by a proceeding dt.11.12.2015 informing that the panel period of the selection list has expired. The petitioner contends that he had obtained information under the Right to Information Act which indicated that the 3rd respondent requested the 2nd respondent to extend the life of the panel for six months. It appears that the 2nd respondent did not accede to the said request.

5. Therefore, the petitioner filed the present Writ Petition to declare the proceedings dt.11.12.2015 of the Presiding Officer, Nalgonda Section, attached to the Office of the 3rd respondent, informing the petitioner that the 2nd respondent had not extended the panel's validity and so the petitioner's request for appointment as driver on contract basis in Nalgonda region cannot be considered.

6. In the counter-affidavit filed by respondents it is stated that though petitioner was provisionally selected for the post of driver in the medical examination done subsequently, his vision was found to be defective and on petitioner's representation dt.17.02.2014, he was sent on his request to the Superintendent of the Andhra Pradesh State Road Transport Corporation Hospital at Tarnaka on 12.06.2014. It is contended that on 19.06.2015, the Superintendent of the said Hospital

returned the original Medical Certificate of petitioner stating that petitioner did not report at the Tarnaka Hospital up to 19.06.2016, i.e., from 12.06.2014 to 19.06.2015. No proceeding of respondents asking the petitioner to attend for medical examination during this period is filed by the respondents. It is further alleged that petitioner gave a representation on 03.08.2015 to the 3rd respondent stating that he did not attend the Tarnaka Hospital due to family problems. But, copy of any such representation given by petitioner is not filed.

7. It is difficult to believe that a person like the petitioner, who was un-employed and who would be anxious to secure his appointment, would not appear for further medical examination by Medical Board of the Andhra Pradesh State Road Transport Corporation Hospital, Tarnaka for the period from 12.06.2014 to 19.06.2015. This is against normal course of human conduct. In the absence of any material placed by respondents that in spite of being asked to attend at the Tarnaka Hospital, the petitioner did not attend for examination, this stand of respondents that he did not attend for this entire period cannot be believed. There is no specific denial by respondents of the petitioner's allegation that he did attend the Hospital on 12.06.2014, but was informed to come after one week and his subsequent reporting to the said Hospital in July, 2014, when he was again asked to obtain a letter from the 3rd respondent to undergo the test.

8. Therefore, *prima facie*, it appears that respondents acted arbitrarily in denying petitioner an opportunity to get himself medically examined and secure employment.

9. Now, a stand is taken by respondents that the life of the panel which selected the petitioner expired on 03.08.2015. By not giving the petitioner an opportunity to be medically examined for such a long period from 12.06.2014 to 19.06.2015, the respondents cannot be allowed to raise this plea. The respondents cannot be allowed to take advantage of their own wrong.

10. In the facts and circumstances of the case and having regard to the conduct of respondents, I am of the opinion that interest of justice would be served if the Superintendent of the Andhra Pradesh State Road Transport Corporation Hospital, Tarnaka is directed to examine petitioner's vision within a period of four (04) weeks from the date of receipt of a copy of this order, and if the petitioner's fitness or driving skill and possession of a driving license are not doubted, the respondents shall provide the appointment to petitioner as a driver on contract basis.

11. In the event that petitioner's eye-sight is found to be defective, rendering him unfit to perform the duty of a driver, then the respondents shall pay compensation of Rs.5,000/- to petitioner.

12. Accordingly, the Writ Petition is allowed with the above directions.

13. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20-10-2016

Ndr/*

