

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 12756 of 2016

Order:

The petitioner was appointed as a Driver in the respondent-Corporation on 01.01.2010 and he was discharging his duties as such till 2014. He was subjected to medical examination and he was found unfit for discharging duty as Driver. Accordingly, orders were issued on 24.02.2016 retiring him from service with effect from 09.02.2016. The petitioner submitted a representation on 01.02.2016 for providing alternative employment in view of disability suffered by him, but the request of the petitioner was rejected by proceedings dated 24.02.2016 holding that he was unfit for all other categories as per the medical standards of the Corporation. This Writ Petition was filed seeking appointment of the petitioner in any alternative suitable post in terms of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for brevity 'the Act').

2. A perusal of the impugned order dated 24.02.2016 shows that the petitioner appeared before the medical board on 02.02.2016 and the medical board found him unfit for the post of driver in Class-A1 category due to "CVA with right Hemiparesis", but in the impugned order it is stated that the petitioner was unfit for all other categories. The disqualification of the petitioner in respect of all other categories is not evidenced by the medical certificate.

3. Learned counsel for the petitioner submits that the issue with regard to treatment to be given to the petitioner is no longer *res integra*, as a learned single Judge of this Court in WP No.36337 of 2012 and batch, dated 29.01.2016, held that the provisions of Section 47 of the Act are applicable and, hence, the impugned order is bad in law.

4. I have carefully perused the medical certificate and the

disqualification made therein and interpretation placed in the impugned order. The petitioner was not found unfit for all other categories as stated in the impugned order.

5. In the circumstances, the Writ petition is allowed by setting aside the impugned order dated 24.02.2016 and the matter is remanded to the third respondent for consideration of the case of the petitioner for alternative employment or payment of salary, as per the provisions of the Act and as interpreted by this Court in WP No.36337 of 2012 and batch, dated 29.01.2016, within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

6. As a sequel thereto, the miscellaneous applications, if any, pending in this Writ Petition shall stand closed.

A.
Date: 07.06.2016
Nsr

RAMALINGESWARA RAO, J