

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 19495 of 2017

Order:

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

The petitioner was appointed as a Driver in the erstwhile APSRTC in the year 1996. While he was working as such, he was sent for Periodical Medical Examination and in one of such examinations, he was found unfit for the post of Driver and he was referred to Medical Board. The Medical Board after examining the petitioner, issued proceedings dated 29.09.2016 declaring him as unfit for the post of Driver. In those circumstances, the petitioner was provided with alternative employment as Shramik and was posted at the third respondent Depot. The petitioner submitted a representation for referring his case for Medical Board, on the ground of improvement in his health. When his representation was not considered, he filed W.P.No.4567 of 2017 and this Court disposed of the same on 21.02.2017 with the following direction:

“Having regard to these submissions, without expressing opinion on merits, the Writ Petition is disposed of granting liberty to the petitioner to make representation to the Depot Manger, TSRTC, Midhani Depot, Ranga Reddy District-3rd respondent requesting to consider for reference to Medical Board and if such a request is made, the 3rd respondent shall consider and pass appropriate orders as warranted by law, within a period of four (04) weeks from the date of receipt of such representation. There shall be no order as to costs.”

Pursuant to the said direction, he submitted a representation on 15.03.2017 and without referring his case to the Medical Board, the impugned order was passed on 10.04.2017 rejecting his request with the following observation:

“On reporting for duty as Shramik, you never approached this end to know the rules and regulations governed for medical unfit drivers, and simply filed a representation before Hon'ble High Court with a plea to direct you to Medical Examination to assess the suitability for the post of Driver, as you have taken treatment for your disease at Bangalore and now fit for duty.

Since there is no provision for directing of Shramik to Periodical Medical Examination as per the TSRTC Employees' (Service) Regulations 1963.

Hence your representation could not be considered for directing you to re-medical examination to assess your suitability for the post of Driver, as you have already declared fit for the post of SHRAMIK only, by the authorized Medical Authorities.”

Challenging the said order dated 10.04.2017, the present Writ Petition is filed.

The matter was adjourned after filing counter by the respondents admitting the receipt of the representation.

Learned counsel for the petitioner submitted that the reference of the case of the petitioner for medical examination was directed after submission of representation, but after submission of representation he was not sent for medical examination at all. The papers filed along with the counter affidavit also do not disclose the reference of the case of the petitioner after submission of his representation. Now the stand taken by the respondents is that there is no provision for directing the Shramik to periodical medical examination. This is not a case where Shramik is asking for periodical medical examination, but the petitioner wants to refer his case for medical examination for assessing his suitability for the post of Driver, as earlier he was found unfit for the post of Driver.

In the circumstances, this Court feels that the order dated 10.04.2017 passed by the third respondent is without considering the facts in proper perspective and the Writ Petition is, accordingly, allowed by directing the third respondent to send the petitioner to the medical

examination for assessing the suitability of the petitioner for restoring his position as to that of a Driver within a period of four weeks from the date of receipt of a copy of this order. After considering the medical report, liberty is given to the third respondent to pass appropriate orders. There shall be no order as to costs.

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

A. RAMALINGESWARA RAO, J

Date: 04.12.2017
Nsr

