

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 37752 of 2017

Order:

The petitioner was appointed as Driver in the respondent Corporation in the year 2009. While he was in service, he suffered with colour blindness and could not discharge his duties as Driver. The petitioner was referred to the TSRTC, JBS Dispensary, where he was declared as unfit for Driver in A-1 Category vide order dated 04.01.2017. Aggrieved by the same, the petitioner filed appeal, wherein also he was declared as unfit for the post of Driver in A-1 category. He submitted a representation on 23.05.2017 to provide alternate employment in terms of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Participation) Act, 1995 (for short, 'the Act'). When the third respondent passed the impugned order on 31.07.2017 ordering the petitioner to retire from service with effect from 16.05.2017 on medical grounds, the present Writ Petition is filed.

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

There is no dispute that the petitioner was found unfit for the post of Driver in A-1 category and he was denied alternate employment on the ground that the reason of colour blindness would not enable him to get alternate employment. The disability of colour blindness merely disabled the petitioner from performing duties of Driver in A-1 category, but not disabled him to get alternate employment. The issue with regard to the applicability of the provisions of the Act is no longer *res integra* as this Court in W.P.No.36337 of 2012 and batch, dated 29.01.2016, held that the provisions of the Act are applicable to the persons in service, who suffered with disability.

Hence, the impugned order dated 31.07.2017 is set aside and the matter is remanded to the third respondent for reconsideration of the case of the petitioner for providing alternate employment or payment of salary in terms of the judgment in W.P.No.36337 of 2012 and batch, dated 29.01.2016, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is accordingly allowed. 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.

Date: 20.11.2017
Nsr

A. RAMALINGESWARA RAO, J

