

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.20741 of 2004

ORDER :

This writ petition is filed seeking a writ of mandamus directing the respondents-Corporation (i) to fix the pay of the petitioner by allowing and protecting all the benefits of driver post from the date of medically unfit from A1 category driving as per Persons with Disabilities Act, 1995; (ii) to fix the pay of the petitioner by allowing and protecting all benefits including pay and increments of his former post (driver) and also allowing notional increments and other eligible increments for out of employment period from the date of medically unfit to till the date of appointing him as cleaner; and (iii) to pay arrears in difference of pay and retirement benefits including pensionary benefits on re-fixed pay by allowing all above benefits as per the Persons with Disabilities Act, 1995 by counting the out of employment period as on duty for all purposes.

2. Heard Sri P.Govindarajulu, learned counsel for the petitioner and learned Standing Counsel for the respondents-Corporation.

3. It has been contended by the petitioner that he has been appointed as Driver in the respondents-Corporation and while he was discharging his duties as driver, he was declared unfit by the Medical Board on 14.02.1992 as he was suffering with colour blindness. Thereafter, the case of the petitioner was considered for alternative employment under the Persons with Disabilities Act, 1995 and he was appointed as Cleaner on 13.10.1997. Now, the

issue is as to how the out of employment period from 14.02.1992 to 13.10.1997 is to be treated.

4. The contention of the petitioner is that the respondents-Corporation ought to have extended the pay protection even for the interregnum period i.e. for out of employment period from 14.02.1992 to 13.10.1997 and pay the benefits to the petitioner by duly treating the said period, for all purposes, as went on duty.

5. The respondents-Corporation filed a counter and at para No.4 it has been admitted that the petitioner's pay was protected even in the Cleaner's post.

6. This Court having considered the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of directing the respondents-Corporation to protect the pay of the petitioner in the post of Driver for the period he was kept out of employment till his reemployment as Cleaner and re-fix his pay and accordingly pay his terminal benefits within a period of four weeks from the date of receipt of a copy of this order.

7. With the above observations, the Writ Petition is disposed of. No costs.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

05th SEPTEMBER, 2018
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