

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.9630 of 2005

ORDER:

When the writ petition is taken up for hearing, counsel for petitioner submits that the petitioner is working as a Driver with the respondents and vide proceedings dated 18.07.2001, respondents have retired the petitioner on medical grounds and the grievance of the petitioner is that his case was not considered for any alternative employment under Section 47 of Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Counsel for petitioner submits that the petitioner has submitted a representation on 27.09.2004 seeking alternative employment, but the respondents have not passed any orders on the said representation. Counsel for petitioner further submits that this Court was pleased to grant interim directions on 26.02.2008 directing the respondents to consider the case of the petitioner for appointment in any alternative post in terms of Section 47 of Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, but no orders are passed so far. It is contended that appropriate orders be passed directing the respondents to consider the case of the petitioner for alternative employment.

The learned Standing Counsel appearing for respondents has contended that the petitioner has submitted a representation to the respondents on 19.04.2001, requesting the respondents to retire him on medical grounds and the petitioner has further submitted in the said

representation that he will not prefer appeal to the Medical Board and will not claim any alternative employment, and in view of the said representation submitted by the petitioner on 19.04.2001, all the retiral benefits of the petitioner were settled and the case of the petitioner was not considered for alternative employment in view of the specific stand taken by the petitioner that he is not interested in any alternative employment. The learned Standing Counsel has drawn the attention of this Court to paragraph 6 of the counter affidavit, wherein, these facts are stated.

Counsel for petitioner contended that the petitioner has not given any representation on 19.04.2001 and never made any statement that he is not interested in any alternative employment.

This Court, having considered the rival submissions of the parties, is of the considered view that the petitioner, on his own, has requested the respondents not to provide any alternative employment, and in view of such a specific stand taken in the counter affidavit, this Court has to take the said statement made in the counter as true, as no reply affidavit is filed by the petitioner denying the said allegation. In view of the fact that the petitioner, on his own, has not sought for any alternative employment, this Court cannot give a direction to the respondents to consider the case of the petitioner for alternative employment in terms of Section 47 of Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

In view of above, there are no merits in the writ petition and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

24th December 2018

ajr

