

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 9713 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondents in not treating the petitioner as on duty from 31.12.2000 to 26.07.2003, as illegal and arbitrary. A consequential direction is also sought to the respondents to treat the petitioner as deemed to be in service from 31.12.2000 to 26.07.2003 and pay wages for the said period with all consequential benefits.

It is the case of the petitioner that while he was discharging his duties as Conductor, he met with an accident resulting in amputation of his right leg and thereby he was declared unfit to discharge the duties as Conductor. Hence, he submitted an application to the respondents seeking for alternate employment in view of Section 47 of Persons with Disabilities (equal opportunities protection of rights and full participation) Act, 1995 (for short 'the Act'). The respondents have considered his application and given alternate employment vide orders dated 27.06.2003 as Shramik. His grievance is that for the out of employment period i.e., from 31.12.2000 to 26.07.2003, he was not paid salary. Therefore, he submitted a representation to the respondents seeking salary for the said period of out of employment, but the respondents have not passed any orders thereon so far. The same is questioned in this writ petition.

Learned standing counsel for the respondents has contended that the respondents have rightly denied wages because the petitioner has not worked for the out of employment period and there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the submissions made by the learned counsel on either side and perused the record, this Court is of the considered view that the writ petition can be disposed of with a direction to the petitioner to submit a fresh representation to the respondents.

Accordingly, the writ petition is disposed of directing the petitioner to submit a fresh representation to the respondents seeking wages for the period from 31.12.2000 to 26.07.2003 within two weeks from the date of receipt of a copy of this order and upon receiving such representation, the respondents shall consider the same and pass appropriate orders within four weeks thereafter.

Consequently, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

29th November, 2018
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Writ Petition No. 9713 of 2004
(disposed of)

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