

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 14112 of 2015

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondents in not paying the salaries from the date of medical unfit to the date of retirement, as illegal, arbitrary and contrary to the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and full participation) Act, 1995 (for short 'the Act'). A consequential direction is also sought to the respondents to pay the arrears of salary from the date of medical unfit to the date of retirement with all consequential benefits by treating the period from the date of his unfit on medical grounds to the date of retirement as drivers as on duty for all purposes.

Heard Sri B.G. Ravinder Reddy, learned counsel for the petitioners, and Sri P. Durga Prasad, learned standing counsel for the respondent corporation.

It has been contended by the petitioners that they are all working as Drivers in the respondent corporation and they were declared unfit for A-1 category on medical grounds. It is further contended that though they approached the respondents for several times seeking payment of salary from the date of medical invalidation to the date of retirement, there is no response from them and they are not paid the salaries. It is also contended by the petitioners that as per

Section 47 of the Act, they are all entitled for alternate job and without providing the same and without even paying their salary, the respondents kept them idle and got retired from service forcibly which is nothing but defeating the very purpose of the Act.

On the other hand, learned standing counsel for the respondent corporation has contended that the petitioners are not entitled for salaries for the interregnum period i.e., from the date of their medical invalidation to the date of retirement and there are no merits in the writ petition and the same is liable to be dismissed.

This Court having considered the rival submissions made by the parties is of the considered view that if the injury suffered by the petitioners falls within the definition of Section 2(i) of the Act, they are entitled for wages. Therefore, the writ petition can be disposed of with a direction to the petitioners to submit a fresh representation to the respondents.

Accordingly, the writ petition is disposed of directing the petitioners to submit a representation afresh to the respondents within two weeks from the date of receipt of a copy of this order, and upon receiving such representation, the respondents shall consider the case of each petitioner as to whether the injury suffered by them falls within the definition of Section 2(i) of the Act, and pass appropriate orders, in accordance with law, within four weeks thereafter.

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

ABHINAND KUMAR SHAVILI, J

28th November, 2018
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(disposed of)

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