

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25043 of 2015

ORDER:

This writ petition is filed seeking to issue a writ of mandamus, declaring the action of the respondents in orally instructing the petitioner to dispense with his services as Shift Operator in 33/11 KV Sub-Station, Nooliveedu, Galiveedu Section, Rayachoty Division, Kadapada District on contract basis, and further, action of the respondents in trying to engage the services of other persons in the place of the petitioner on contract basis, without following due process of law, as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India, and consequently to direct the respondents to continue the services of the petitioner as Shift Operator.

Heard Sri N.M.Krishnaiah, learned counsel for the petitioner and Sri N.Siva Reddy, learned standing counsel for the respondents.

It has been contended by the petitioner that he was initially appointed as a Shift Operator on contract basis during the year 2007 and ever since then, he has been discharging the duties as a Shift Operator. It has further been contended by the petitioner that while he was working as a Shift Operator, the respondents had received a complaint that he is physically disabled person and he is continued illegally as a Shift Operator. Entertaining the said complaint, the respondents have directed the contractor to dispense with the services of the petitioner and the contractor has dispensed with the services of the petitioner from August, 2015 without any notice. Challenging the same, the present writ petition is filed.

Respondent No.3 has filed counter affidavit. In the counter affidavit, it has been stated that since the petitioner is a handicapped person, it is difficult for him to safeguard his life during the emergency period and on that ground only, the petitioner was removed from service.

This court, having considered the rival submissions made by the parties, is of the considered view that the petitioner has been discharging his duties for the past 8 years without any complaint and if at all, the respondents feel that if a handicapped person cannot work as a Shift Operator, in all fairness, the respondents ought to have provided him even an alternative employment. It is not the case of the petitioner that he has suppressed his disability while entering into employment and he has been discharging his duties from 2007 onwards.

In view of the above, this court feels that ends of justice would be met if the writ petition is disposed of, directing the petitioner to submit a representation to the respondents, requesting them to provide alternative employment, within a period of 2 (two) weeks from the date of receipt of a copy of this order, and upon receiving such representation, the respondents are directed to consider the case of the petitioner for providing any other alternative employment where the petitioner can discharge his duties peacefully, and pass appropriate orders thereon, in accordance with law, within a period of 8 (eight) weeks therefrom.

With these observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 01.05.2018
Dsr