

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27104 of 2017

ORDER :

This writ petition is filed seeking a writ of Mandamus to declare the action of the respondents in not allowing the petitioner into duty as illegal and arbitrary and to set aside the Proceedings No.PA/20(51)/2011-HR, dated 13.3.2012 passed by respondent No.2. A consequential direction is sought to allow the petitioner into duty as per Proceedings No. PA/20(51)/2011-HR, dated 18.2.2011 of the respondent No.2.

Heard Sri P.Venkateshwer Rao, learned counsel for the petitioner and Sri N.Vasudeva Reddy, Standing Counsel for the respondents.

The case of the petitioner is that he was appointed as a Contract Driver in the respondent-Corporation in the year 2007 and while he was working as such, his daughter fell sick in the year 2009 and he could not attend the duty, but the respondent-Corporation had construed the said absence as misconduct and terminated his services by proceedings No.P1/1(11)/2010-HYT-I, 3.9.2010. Aggrieved by the same, he had preferred an appeal to the appellate authority and the appellate authority rejected the appeal on 27.11.2010. Then the petitioner had preferred a review before the reviewing authority and the reviewing authority had partly allowed the review petition by orders dated 18.2.2011 and modified the punishment of termination to that of appointment afresh after completing the formality such as furnishing security deposit, within a period of seven (7) days.

It is submitted by learned counsel for the petitioner that the petitioner could not furnish security deposit within seven (7) days as directed by the reviewing authority. As the petitioner had not come forward with the security deposit within the stipulated time of 7 days, the reviewing authority had reviewed the orders passed by him on 18.2.2011 and on 13.3.2012 he had recalled the orders dated 18.2.2011 on the ground that the petitioner had failed to report duty within 7 days by furnishing security deposit amount as directed.

It is contended by learned counsel for the petitioner that the petitioner because of his severe financial crisis, could not furnish the security deposit as directed by the reviewing authority in the orders dated 18.2.2011 and had filed this writ petition challenging the orders dated 13.3.2012 stating that presently his financial condition is better and he is willing to pay Rs.2000/- as security deposit and requested to set aside the orders, dated 13.3.2012 and appoint the petitioner afresh as contract Driver.

On the other hand, Sri N.Vasudeva Reddy, learned Standing Counsel for respondent-Corporation contends that as the petitioner had failed to comply with the specific condition as imposed in the orders dated 18.2.2011, the reviewing authority had rightly cancelled its orders on 13.3.2012 and the question of entertaining the petitioner to duty after five years from the date of cancellation of orders of reviewing authority, would not arise.

After considering the rival submissions made by the parties, this Court is of the view that the petitioner can be given one more opportunity for furnishing the security deposit and on furnishing the security deposit in

compliance with the orders of reviewing authority dated 18.2.2011, the petitioner should be appointed afresh as Contract Driver..

Accordingly, the orders passed by the reviewing authority on 13.3.2012 vide Proceedings No.PA/20(51)/2011-HR are hereby set aside and the petitioner is given last chance to furnish security deposit within a period of four weeks from today and upon furnishing the security deposit by the petitioner, the respondents are directed to consider the case of the petitioner as Contract Driver afresh. It is needless to say that the respondent-Corporation would take the petitioner as Contract Driver afresh, subject to condition that the petitioner fulfills all the other eligibility criteria for appointment to the post of Contract Driver including physical tests, driving tests and other medical tests, if any.

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

Miscellaneous petitions pending, if any, in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date:05.01.2018
slk