

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.677 OF 2010

ORDER:

This writ petition is filed seeking to declare the action of the 3rd respondent in refusing to examine fitness of the petitioner to hold the post of Record Tracer as illegal and arbitrary.

When the matter is taken up for hearing, it has been contended by the learned counsel for the petitioner that the petitioner has been declared as medically unfit to discharge his duties as driver and the respondents have asked for an option either to get appointed as Conductor Grade-II or Shramik. The petitioner has exercised his option to appoint him as Shramik.

Bet that as it may, the case of the petitioner was not considered either for appointing him as Conductor or Shramik and during the pendency of this writ petition, the petitioner has attained the age of superannuation.

Learned Standing Counsel appearing for the respondents had contended that the petitioner was suffering with defective vision and it will not come within the purview of Section 2(i) of the Industrial Disputes Act, 1947 and the Hon'ble Supreme Court in Civil Appeal No.3529 of 2017, vide judgment dated 23.2.2017, has held that only such a disability which reforming part of Section 2(i) is alone to be taken into consideration for providing alternative employment. Since the petitioner had attained the age of superannuation, at this stage, there cannot be any direction for providing alternative employment to the petitioner. Learned Standing Counsel further submits that the petitioner will be

entitled for additional monitory benefits and the respondents are willing to pay the same, if not already paid.

Having considered the rival submissions made by the parties, this Court is of the considered view that since the petitioner had attained the age of superannuation, there cannot be any direction to provide alternative employment to the petitioner at this point of time. However, the petitioner is entitled to receive the additional monitory benefits, in accordance with the regulations, if not already paid to the petitioner.

Accordingly, the writ petition is disposed of directing the respondents to pay the additional monitory benefits to the petitioner within a period of four weeks from the date of receipt of copy of this order, if not already paid. No order as to costs.

As a sequel to disposal of the writ petition, Miscellaneous Petitions, if any pending, shall also stand closed.

Date:28.09.2018.
Gk.

ABHINAND KUMAR SHAVILI,J

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