

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 44107 of 2018

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the proceedings dated 26.04.2016 issued by the 2nd respondent in retiring the petitioner on medical grounds, as illegal, arbitrary and contrary to the provisions of the Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016) (for short 'the Act') and declaring that the petitioner is entitled to be considered for alternate employment in any suitable post in terms of Section 20(4) of the Act, and he is entitled to the salary as was being drawn by him from the date of issuance of the proceedings dated 26.04.2016 till the date of his reinstatement.

Heard Ms. K. Udayasri, learned counsel for the petitioner, and Sri P. Durga Prasad, learned standing counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as Driver in the respondent corporation on 06.08.1994. While he was discharging his duties, on 29.05.2013 he suffered from a stroke, as a result of which, he was partially paralysed on right side. Thereafter, he was directed to appear before the Medical Board and accordingly he was appeared before the Medical Board and the Medical Officer on examination declared him unfit to continue in service vide proceedings dated 26.06.2014. Aggrieved thereby, he preferred an appeal before the appellate authority and a review before the reviewing authority and the Medical Board vide proceedings dated 24.12.2014 and 26.04.2016 declared him unfit for discharging duties. It has been further contended that on the very same day, the 2nd respondent

issued orders dated 26.04.2016 retiring him from service on medical grounds and that though he submitted a representation to the respondents on 20.04.2018 and 01.10.2018 seeking alternative employment, the respondents have not passed any orders so far. Questioning the same, he filed the present writ petition.

Learned standing counsel for the respondent corporation has submitted that the respondents would consider the representations of the petitioner and pass appropriate orders in accordance with law.

Having considered the rival submissions made by the learned counsel for the petitioner and perused the record, this Court is of the considered view that the writ petition can be disposed of with a direction to the respondents to consider the representations of the petitioner and pass appropriate orders.

Accordingly, the writ petition is disposed of directing the respondents to consider the case of the petitioner under Section 20 (4) of the Act and pass appropriate orders on the representations of the petitioner dated 20.04.2018 and 01.10.2018, in accordance with law, within four weeks from the date of receipt of a copy of this order.

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

ABHINAND KUMAR SHAVILI, J

6th December, 2018
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(disposed of)

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