

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.518 OF 2018

**GOROBA S/O. DNYANOBA THORMOTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. T.M.Venjane, Advocate for the petitioner
Mrs. R.P.Gour, AGP for the respondent/State
Mr. R.D.Reddy, Advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 17.01.2019

P.C. :-

1. Heard the learned counsel for the petitioner.
2. The petitioner before us is an employee of the respondent No.2-The Managing Director, namely, Maharashtra State Road Transport Corporation. The petitioner entered in the services of the Corporation 02.09.1999. The petitioner was subjected to medical examination and the Competent Authority, namely, the Dean of J.J. Hospital, Bombay after examining the petitioner, declared "unfit to perform the duties of driver because of defective colour vision (Anamaloscope)" and on this certificate the respondent No.3 the Divisional Controller, Latur passed the order dated 25.09.2017 thereby removing the name of the petitioner from the post of the drivers and the petitioner was subjected to termination by this order. It was submission of the learned counsel that the Maharashtra State Road Transport Corporation issued a circular whereby the persons suffering from the vision

infirment were absorbed in the services of the Corporation by providing the job of cleaner to such persons. The learned counsel submits that though the petitioner made representations to the authority for absorbing the petitioner in the post of Cleaner, the application/representation has not been considered. The learned counsel by inviting our attention to the judgment and order of this Court dated 18.12.2018 in Writ Petition No. 10661 of 2017 submitted that in identical circumstances the Division Bench of this Court found that the action initiated against the petitioner is unsustainable. The Division Bench permitted the petitioner to submit representation to the authorities and the respondent-Corporation was directed to take a decision on the representation on the backdrop of the observations of the Court within a stipulated period.

3. On perusal of the material placed on record and considering the submissions of the learned counsel for the petitioner as well as the order of this Court dated 18.12.2018 to which one of us (Justice P.B.Varale) was party, we allow the petition partly by quashing and setting aside the order of dated 25.09.2017. We further direct the respondent Corporation to consider the application of representation dated 28.09.2017 afresh without insisting mechanically on circular dated 29.07.2016 and to assess the fitness of petitioner afresh and to consider the case of the petitioner for providing alternate job in the Corporation and this exercise be undertaken by the Corporation as expeditiously as possible and not later than 6 weeks

from the date of order of this Court.

4. It was submitted by the learned counsel for the petitioner that though the order was passed by the Corporation on 25.09.2017 salary of the petitioner was stopped from October, 2017. The counsel then submits that on the lines of the liberty granted to the petitioner in Writ Petition No.10661 of 2017 the present petitioner be also permitted to submit representation raising this grievance to that effect to respondent Corporation. If such representation is submitted by the petitioner within two weeks from today the respondent Corporation to take decision on the said representation on its merits as expeditiously as possible.

5. Petition is disposed of in above terms.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]