

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.1829 OF 2018

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the proceedings dated 03.01.2018, by which suitable alternative employment is not provided to the petitioner and the petitioner is not paid salary from 01.07.2017 till date, as arbitrary, illegal and contrary to A.P.S.R.T.C Service Regulations, the provisions of the Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016) as well as in violation of Fundamental Rights guaranteed under the Constitution of India and sought a consequential direction to direct the respondents to provide suitable alternative employment to the petitioner and pay salary to the petitioner from 01.07.2017 till date.

Heard Sri A. Jagan, counsel for the petitioner, and Sri A. Ravi Babu, Standing Counsel appearing for the respondents.

It has been contended by the petitioner that he was initially appointed as Conductor with the respondents and while he was discharging his duties, it was alleged that he had indulged in cash and ticket irregularities, for which the disciplinary proceedings have been initiated against him by the disciplinary authority. After conducting detailed enquiry, the petitioner was removed from service vide proceedings dated 22.07.2017. Thereafter, the petitioner has preferred appeal and the appellate authority was pleased to take a lenient view and vide proceedings dated 28.08.2017, the petitioner was reinstated

into service subject to medical fitness. Thereafter, the petitioner was subjected to medical fitness, but however he was declared unfit by the Medical Board and the appellate authority has cancelled the reinstatement orders of the petitioner vide proceedings dated 03.01.2018 only on the ground that the petitioner could not clear the medical examination. Challenging the same, the present writ petition is filed.

Counsel for the petitioner submits that when once the Medical Board has declared the petitioner has medically unfit for the post of Conductor, in all fairness the appellate authority ought to have considered the case of the petitioner for alternative employment, but without considering the case of the petitioner for alternative employment, the appellate authority has cancelled the earlier reinstatement orders passed on 28.08.2017. Therefore, counsel for the petitioner submits that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for providing alternative employment as he was declared medically unfit for the post of Conductor.

Standing Counsel appearing for the respondents had contended that the petitioner is a removed employee and the status of the petitioner is still a removed employee as he has not cleared the medical examination in pursuance of the orders passed by the appellate authority, therefore, the question of considering the case of the petitioner for providing alternative employment under the provisions of the Rights of Persons with Disabilities Act, 2016, would

not arise. However, if the petitioner submits a representation afresh to the 2nd respondent, the 2nd respondent would consider the same and pass appropriate orders in accordance with law.

This Court, having considered the submissions of learned counsel for respective parties, is of the considered view that this writ petition can be disposed of directing the petitioner to submit a representation afresh to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order, staking his claim for providing alternative employment as he could not clear the medical examination for the post of Conductor in pursuance of the orders of the appellate authority dated 28.08.2017. Upon such representation being received, the 2nd respondent shall consider the same and pass appropriate orders in accordance with law in another six weeks thereafter.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

