

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.2409 of 2013

ORDER:

This writ petition is filed seeking the following relief :-

“....to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd Respondent in retiring the father of the petitioner without offering alternate employment vide proc.No.P2/ 693(2)/ 09-MBNR, dt.6.7.2009 as illegal, contrary to the provisions of Sec.47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation Act) 1995, unjust and arbitrary and as such liable to be set aside with a consequential direction to the respondents to pay salary from 9.3.2009 to till his death on 5.3.2011 and to direct the respondents to appoint the petitioner by treating the death of his father namely late Sri Md.Hussain E-200330, Driver of Mahaboobnagar Depot, as died in harness, while on duty forthwith”.

Heard Mr.S.M.Subhan, learned counsel appearing for the petitioner and Si B.Mayur Reddy, learned Standing Counsel for the respondents.

It has been contended by the petitioner that his father was employed as a driver with the respondents during the year 1986 and after rendering considerable length of service, his father was declared unfit for the post of driver and his father retired on 06.07.2009 on medical invalidation without considering his father's case for alternative employment in terms of Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (for short 'the Act'). After retirement on medical grounds, his father expired on 05.03.2011. The petitioner respectfully submits that he has been representing to the respondents to consider his father's case for payment of salary from

09.03.2009 till the death of his father on 05.03.2011 by considering his case for alternative employment in terms of Section 47 of the Act. But, so far, the respondents have not passed any orders. In those set of circumstances, the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that since the petitioner's father retired on medical grounds vide proceedings dated 06.07.2009, without considering the petitioner's father case for alternative employment in terms of Section 47 of the Act appropriate orders be passed in the writ petition directing the respondents to pay salary of petitioner's father from 09.03.2009 to 05.03.2011.

Learned Standing Counsel appearing for the respondents has contended that the petitioner is not entitled to claim any salary on behalf of his father. The father of the petitioner never represented that his case be considered for alternative employment in terms of Section 47 of the Act. When the deceased employee has not claimed alternative employment, it is not open for the petitioner to claim salary on behalf of the deceased employee. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the respective parties, is of the considered view that since the respondents have not passed any orders on the representation submitted by the petitioner, this writ petition can be disposed of directing the petitioner to submit a fresh representation to the respondents within two weeks from the date of receipt of a copy of this order claiming salary of his father from 09.03.2009 to 05.03.2011.

Upon such representation being received, the respondents shall consider the same and pass appropriate orders in accordance with law within six weeks thereafter. No order as to costs.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

17-09-2019
Prv

