

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**W.P.No.29716 of 2017**

**ORDER:**

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondents in fixing the pay of the petitioner in the category of *shramik* and not paying salary from 12-07-2010 to 11-11-2011, as illegal, arbitrary and contrary to the provisions of the Act 49 of 2016 APSRTC (Service) Regulations and violative of fundamental rights guaranteed under the Constitution of India and sought a consequential direction to pay salary for the said period by fixing the pay in the category of Driver and pay all other attendant benefits.

2. Heard Sri A.Jagan, learned counsel for the petitioner and Sri A.Ravibabu, learned Standing Counsel for TSRTC, appearing for the respondents.

3. Petitioner contends that he was employed as Driver with the respondents-Corporation and while he was discharging his duties as Driver, he was declared unfit on the ground that he was suffering from 'Bilateral Defective Distance Vision' and thereafter, petitioner has submitted representation to provide alternative employment and respondents have provided alternative employment to the petitioner on 11-11-2010 as *shramik*. The grievance of the petitioner is that while providing alternative employment as *shramik* under the provisions of the Persons with Disabilities (Equal Opportunities,

Protection of Rights and Full Participation) Act, 1995, (for short 'the Act, 1995'), the respondents failed to fix pay in the category of Driver and they have also not paid the salary for the interregnum period i.e. from 12-07-2010 to 11-11-2011.

4. Therefore, learned counsel for the petitioner contends that appropriate orders be passed in the Writ Petition by directing the respondents to pay salary to the petitioner for the said interregnum period by fixing the pay in the category of Driver.

5. Learned Standing Counsel for the respondents submits that the petitioner's case was considered for reemployment, but however, as per the judgment of the Supreme Court in Civil Appeal No.3529 of 2017, dated 23-02-2007, only the persons having disability which fall under Section 2 (i) of the Act, 1995, are entitled for pay protection. Since the case of the petitioner would not fall under Section 2 (i) of the Act, 1995, the petitioner is not entitled to any pay protection and also for salary for the said interregnum period. He further contends that the petitioner was given alternative employment on 11-11-2010 and the petitioner was retired from service on 30-04-2017 and he has filed this Writ Petition after retirement i.e. nearly after seven years from the date of providing alternative employment. Therefore, the Writ Petition is barred by limitation and the same is liable to be dismissed on this ground alone. However, he further submits that the petitioner's case would be examined in terms of the judgment of the Supreme Court, referred

to above, and appropriate orders would be passed, if the petitioner submits fresh representation to the respondents.

6. Having regard to the rival submissions made by the parties, this Court is of the considered view that this Writ Petition can be disposed of by directing the petitioner to submit fresh representation within two weeks from the date of receipt of a copy of this order and upon such representation being received, the respondents shall consider the case of the petitioner and pass appropriate orders within a period of four weeks thereafter.

7. With these observations, the Writ Petition is disposed of. No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE ABHINAND KUMAR SHAVILI**

Date: 14-06-2019  
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