

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

9 WRIT PETITION NO.2156 OF 2019

DASHRATH TUKARAM RAJE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr Venjane Tukaram M.
AGP for Respondents State: Mrs V S Choudhari
Advocate for Respondents 2 and 3: Mr. Anand D Wange

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 13th February, 2020

ORDER:

1. Heard Mr. Venjane, learned counsel for the petitioner and Mr. Wange, learned counsel for respondent Nos. 2 and 3.

2. Learned counsel for the respondents relies on the circular dated 23rd January, 2020 to suggest that the petitioner will have to be referred to the Vision Next, Pune to verify his contention of colour blindness. The respondents submit that if it is found that the petitioner has colour blindness, then whether he can be given alternate employment would be considered and if it is found that he is competent to drive, then he would be continued as driver.

3. In view of provisions of the Rights of Persons with Disabilities Act, 2016 the petitioner could not have been terminated on the ground of disability. The respondents may proceed further with the process of examining, the petitioner. It is inappropriate to terminate the services of the petitioner on the ground that the petitioner has become unfit for driving. In that case, he could have been given alternative employment.

4. In light of that the impugned order of termination is quashed and set aside.
5. The period from termination shall be counted for the purpose of continuity of service and further benefits.
6. The respondents may refer the petitioner to the competent authority as per Circular date 23rd January, 2020 and take further steps depending upon the report, immediately.
7. With the aforesaid observation, writ petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC