

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2327 OF 2008

Maharashtra State Road Transport
Corporation

..Petitioner

Versus

Shri. Rajaram Anandrao Kale

..Respondent

Mr. G. S. Hegde a/w Ms. P. M. Bhansali i/by M/s. G. S. Hegde
& Associates, for the Petitioner.

Mr. Ganesh N. Kumkar i/by R. V. Bansode, for the
Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 11th JULY, 2022

P.C.

1. This petition is by the statutory State Transport Corporation questioning the order passed by the Commissioner, Handicapped Welfare, Maharashtra State, Pune delivered on 24th August, 2007 (hereinafter shall be referred to as "impugned order") whereby following directions were issued to the petitioner :-

"2. Corporation is directed to appoint the applicant on the post of announcer or another post in Pune within 15 days from the receipt of order and if no such post is available then to create other equivalent post by protecting his pay on post of driver and the said newly created post be brought to an end after his superannuation.

3. Respondent shall make payment of wages and other allowances from 7-6-01 along with all medical expenditure within one month from the date of receipt of order.

4. The service of the applicant may be treated continuous and he may be paid arrears of wages by giving benefit of annual increment within 60 days from receipt of Court order.

5. The respondent will also keep original seniority of the applicant intact and award him promotional benefits.

6. The respondent will not again demand from the applicant disability certificate.

7. The Commissioner has also asked Corporation to submit compliance report immediately”.

2. The facts necessary for deciding the petition are as under :-

The respondent was appointed as a driver. As on 23rd July, 1998, while discharging his duty, the vehicle of the petitioner met with an accident, wherein the respondent suffered 53% disability which was because of injury suffered to his left leg.

3. The aforesaid disability has prompted the petitioner/Corporation to terminate his services from 7th June, 2001. Feeling aggrieved the respondent/ employee approached the Commissioner, Handicapped Welfare, which has led to passing of the order impugned.

4. While questioning the order, Mr. G. S. Hegde would urge that the procedure adopted to accommodate the employees like respondent is by maintaining seniority

waiting list. As and when vacancy in the category of the concerned candidate occurs claims were considered on merit. Such act on the part of the petitioner took considerable time which has led to passing of the order impugned. In addition his contentions are, the respondent subsequently was reinstated on the post of peon and has superannuated. As such, he would urge that the Tribunal committed an error in granting backwages and other ancillary benefits.

5. The contentions are controverted by Mr. Ganesh Kumar appearing for the respondent, as according to him, the order impugned is in tune with the provisions of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995, particularly, Sections 62 and 63 of the said provisions. He would urge that the petition lacks merits and deserves dismissal.

6. Having appreciated submissions, what can be noticed is the termination of the respondent on 7th June, 2001 is without any inquiry. The only cause cited for termination appears to be that of respondent incurring disability in the aforesaid accident and such was unable to discharge his duty as a driver.

7. The fact remains that the respondent has incurred such disability during discharge of official duty i.e. driving vehicle of the petitioner/Corporation. In such

eventuality, the petitioner ought not to have terminated the services of the respondent that too without following due process of law.

8. In this background, the Tribunal, in my opinion, was justified in passing the order impugned which appears to be in tune with the provisions as referred above.

9. Even if at later point of time, the petitioner has reinstated the respondent in the service, that by itself will not legalise act of the petitioner and rightly so held by the Tribunal that the respondent was entitled for all benefits as referred to reproduced herein-above. In that view of the matter, the order impugned appears to be in tune with law and does not call any interference. As such the petition fails, dismissed.

10. Having regard to the fact that the respondent/employee has already stood superannuated, the compliance of the order impugned be reported within a period of ten weeks from today.

[NITIN W. SAMBRE, J.]