

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19900 of 2005

Between:

B.Nagabhusana Rao.

.. PETITIONER

AND

The State Transport Authority.

.. RESPONDENT

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ORDER:

The petitioner was employed in APSRTC on 11-04-1985. He was subjected to routine medical check-up on 16-08-2005. His eye vision was found to be defective. Therefore, he was referred to APSRTC Hospital at Hyderabad. The opinion rendered by the Medical Officer of the Depot was confirmed by the State Level Hospital. The net result is that the petitioner was found unfit to be continued in the post of driver. Therefore, he was retired from service with effect from 10-08-2005.

Learned counsel for the petitioner contends that though the vision of the petitioner was such that, as would render him unfit to be continued as driver, the respondents are under the obligation to provide alternative employment to him in compliance with Section 4 of Persons with Disabilities (Equal Opportunities, Protection of Rights Full Participation) Act, 1995 (for short "the Act"). He contends that the benefit under the said Act was not extended to the petitioner.

Learned Standing Counsel for the respondents, on the other hand, submits that the non-extension of the benefit under the Act to the petitioner was due to absence of vacancies and that the petitioner was paid all the retirement benefits.

The petitioner was retired from service, before he attained the age of superannuation, on the ground that his vision was defective. The Act provides for various measures to be taken by the employers, whenever the health condition of an existing employee is found to have deteriorated. The emphasis is upon the provision of alternative and suitable employment to such persons, instead of removing or retiring them from service. The provisions of the Act are mandatory and they obligate

the employer to take all possible measures to provide alternative employment. Even if there was any dearth of vacancies for any particular time, the case of the petitioner needs to be considered at the earliest possible.

Therefore, the writ petition is disposed of, directing the respondents to consider the feasibility of providing alternative employment to the petitioner, as per Section 4 of the Act and the decision in this regard shall be taken, within a period of three months from the date of receipt of a copy of this order. It is, however, made clear that in case the petitioner is provided with such employment, he shall be under obligation to refund all the benefits, if any, have been extended to him at the time of retirement. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Dated:31-10-2005

Note:

Furnish C.C. in three days.

(B/o)

Prv