IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 11TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE R.NATARAJ

WRIT PETITION NO.203019 OF 2022 (S-KSRTC)

BETWEEN:

MR. ISHAPPA K. S/O LAXMANNA,
AGE: 32 YEARS,
OCC: DRIVER-CUM-CONDUCTOR,
BADGE NO.1805, NEKSRTC DEPOT, MANVI,
R/O 138, BAILMARCHAD VILLAGE,
SUNKESHWAR POST, MANVI TQ.,
RAICHUR DIST:- 584203.

…PETITIONER

(BY SRI MALIPATIL P. S., ADVOCATE)

AND:

Digitally signed by RENUKA
Location: High Court Of Karnataka

1. THE MANAGING DIRECTOR, NEKSRTC,
   KARNATAKA STATE ROAD
   TRANSPORT CORPORATION,
   CENTRAL OFFICE,
   SARIGE SADHANA MAIN ROAD,
   KALABURAGI-585102.

2. THE DIVISIONAL CONTROLLER, NEKSRTC,
   RAICHUR DIVISION, RAICHUR-584101.

3. THE CONTROLLER, NEKSRTC
   MANVI DIVISION, MANVI-584123.

…RESPONDENTS

(BY SRI DEEPAK V. BARAD, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER NO.ಕಕರಸಾ/ರಾವಿ/ಸಿಬ್ಬಂದಿ/ಪಿ5/2702/2022–23, DATED 20/21-09-2022 ISSUED BY THE RESPONDENT NO.2 VIDE ANNEXURE-E. ISSUE A WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENT NOS.1 AND 2 TO CONSIDER THE REPRESENTATION DATED 10-09-2020 VIDE ANNEXURE-C IN VIEW OF THE MEDICAL CERTIFICATE ISSUED BY RAJIV GANDHI SUPER SPECIALITY HOSPITAL, RAICHUR AND SPARSH HOSPITAL, BENGALURU VIDE ANNEXURE-D AND B AND ASSIGN LIGHT OFFICE WORK TO THE PETITIONER.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R.NATARAJ

ORAL ORDER

The petitioner has challenged an order bearing No. ಕಕರಸಾ/ರಾವಿ/ಸಿಬ್ಬಂದಿ/ಪಿ5/2702/2022-23, dated 20-21.09.2022 issued by respondent No.2 refusing to assign light work to the petitioner. The petitioner has also sought for a direction to respondent Nos.1 and 2 to consider his representation dated 10.09.2020 for assignment of light office work.

2. The petitioner contends that he was appointed as a driver-cum-conductor on 25.04.2015. After the

probationary period was declared, the petitioner was diagnosed with a kidney related issue and was admitted at Sparsh Hospital, Bengaluru on 26.08.2019 where it was found that both his kidneys were not functioning. The mother of the petitioner donated one of her kidneys and the petitioner underwent a transplantation on 27.08.2019. After his discharge on 06.09.2019, he was advised not to engage in strenuous work, which could expose him to infection. The petitioner therefore submitted a representation and enclosed therewith a medical certificate issued by Sparsh Super Speciality Hospital, Bengaluru. However, the respondents did not consider his request, which compelled the petitioner to submit another request on 10.09.2020. The respondents insisted the petitioner to furnish a disability certificate and stated that the petitioner cannot be granted light work, if he has not suffered disability of more than 40%. The petitioner was thereafter directed to appear before the Rajiv Gandhi Super Speciality Hospital for assessment of his disability. Accordingly, the petitioner appeared on 20.07.2022 and

the medical board certified that the petitioner is *"Presented complications post Renal Transplant and was on immuno suppressive drugs since 2019. He can be given light work/office work in view of his health condition"*. Thereafter, respondent No.2 passed an order dated 20-21.09.2022 stating that though the petitioner had undergone kidney transplantation, the disability assessed by the district medical board was not a disability as described under the Physical Disability Act, 1995 (for short, 'the Act of 1995') and therefore rejected the request of the petitioner for assignment of light work. Being aggrieved by the aforesaid order, the petitioner is before this Court.

3. The learned counsel for the petitioner contended that the petitioner has undergone a kidney transplantation which means that he cannot indulge in heavy strenuous work such as, driver–cum-conductor. He therefore, contends that the petitioner should be deemed to be a person with disability and the respondents are

bound to assign light work taking into account the sensitive health condition of the petitioner.

4. *Per contra,* the learned counsel for the respondents contended that the disability suffered by the petitioner is not one of the disabilities mentioned in the Schedule-II to the Act of 1995 and therefore the respondents are in no position to consider that the petitioner is suffering from disability and therefore he is not entitled to be assigned light work.

5. I have considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents.

6. The petitioner was appointed as a driver-cum-conductor in the year 2015. The respondents had subjected the petitioner to a fitness test before he was appointed as a driver-cum-conductor. The petitioner had worked ever since the year 2015 till the year 2019, when he was diagnosed as suffering from a kidney related ailment. It could quite be possible that due to the pressure

or nature of work, the petitioner could have contracted the illness. The petitioner was hardly aged about 32 years when he filed this petition and it is unfortunate that such a young person suffered a serious illness such as, failure of both the kidneys. The respondents cannot discharge or dismiss or terminate the petitioner but have to extract work from him. The respondents therefore must have considered the sensitive health condition of the petitioner and must have assigned him light work even if the same does not amount to a disability as mentioned in Schedule-II to Act of 1995. Therefore, notwithstanding the fact that the disability suffered by the petitioner is not a disability as defined under the Act of 1995, the respondents are bound to accommodate the petitioner in any light office work having regard to the precarious health condition of petitioner.

7. In that view of the matter, the following order is passed:

ORDER

(i) The writ petition is ***allowed***.

(ii) The impugned order passed by respondent No.2 is quashed.

(iii) Respondent Nos.1 and 2 are directed to assign light work to the petitioner taking into account his health condition and this shall be complied within a period of one month from the date of receipt of a copy of this order.

Sd/-
(R.NATARAJ)
JUDGE

RSP
List No.: 1 Sl No.: 37
CT:SI