

**S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S**

**Petition(s) for Special Leave to Appeal (Civil) No(s).9194/2008**

**(From the judgement and order dated 22/01/2008 in CWP No. 12412/2006 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)**

**RITESH**

**Petitioner(s)**

**VERSUS**

**DAKSHIN HARYANA BIJLI VITRN NIGM.LD.&ORS      Respondent(s)**

**Date: 19/11/2008 This Petition was called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE S.B. SINHA**

**HON'BLE DR. JUSTICE CYRIAC JOSEPH**

**For Petitioner(s)      Mr. Abhyuday Rathore, Adv.  
                                 Mr. Rishi Malhotra, Adv.**

**For Respondent(s)      Mr. Manjit Singh, Adv.  
                                 Mr. T.V. George, Adv.**

**UPON hearing counsel the Court made the following  
O R D E R**

**Leave granted.**

**The appeal is allowed in terms of the signed order.**

**[ Meenu Sethi ]**

**Court Master**

**[ Pushap Lata Bhardwaj ]**

**Court Master**

**Signed order is placed on the file**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 6746 OF 2008**  
**(Arising out of S.L.P. (C) No.9194/2008)**

**Ritesh                      ...Appellant**

**Versus**

**Dakshin Harana Bijli      ...Respondents**  
**Vitran Nigam Ltd. & Ors.**

**O R D E R**

**Leave granted.**

**Appellant was appointed in the post of Junior Engineer(Electrical) on 3.8.2004. One of the clauses contained in the 'offer of appointment' reads as under:**

**" 7. This offer is being issued and you are allowed to join the services subject to submitting the required Medical certificates from the concerned CMO in view of Haryana Government letter No.16/34/2003-04 Power dated 29.7.2004. In case you are medically unfit your services are liable to be terminated without any notice."**

**Admittedly, the appellant was medically examined in September, 2004. Whereas in other respects he was found medically fit, it was however stated in the medical report:**

**" For defective color vision as per Ishihara's color vision book but can recognize three primary colors separately."**

**A show-cause notice was issued to the appellant as to why his services shall not be terminated on and from 10.8.2005.**

**Upon consideration of the cause shown by the appellant and furthermore on the basis of an opinion of the Medical Board which was constituted for the said purpose, the services of the appellant were terminated on 1.8.2006.**

**The writ petition preferred by the appellant before the High Court has been dismissed by reason of impugned order.**

**On 16.4.2008, this Court has issued a limited notice as to whether the appellant can be accommodated in any other department in terms of the provisions of the Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.**

**Mr. Manjit Singh, learned counsel appearing on behalf of the respondents has drawn our attention to the fact that according to the medical report, appellant was a color blind from his birth and, thus, he would not have been able to perform his duties as Junior Engineer.**

**Having regard to the fact that the appellant had been in service for about two years without interruption, we in exercise of our jurisdiction under Article 142 of the Constitution of India direct that the appellant may be accommodated in any other wing of the Respondent-Corporation on the post which would be commensurate with his qualification. His salary shall, however, remain protected.**

**We make it clear that the question as to whether in a case of this nature, the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act 1995 shall apply or not has not been gone into by us.**

**With the aforesaid directions and observations, the appeal is allowed.**

**[S.B. SINHA]** .....J.

**[ CYRIAC JOSEPH ]** .....J

**New Delhi,  
November 19, 2008.**