

Party Name : T.S.E.C.LTD & 2 ORS Vs THE STATE OF TRIPURA & ANR

THE HONBLE MR. JUSTICE S.C.DAS

Heard learned counsel, Mr. P. Chakraborty for the petitioners and learned Government Advocate, Mr. T. D. Majumder for the State-respondent No.1 as well as Mr. A. Dasgupta for the respondent No.2. The writ petition is taken up for final disposal at the admission stage itself.

By filing this writ petition the petitioners prayed for quashing order dated 20.04.2013 passed by the Commissioner of Persons with Disabilities (Principal Secretary to the Government of Tripura) in Case No. 30/2012 (Annexure-'C' to the writ petition).

The main contention of the petitioners is that the respondent No.2 while working as a helper under the petitioners suffered injury and as a result he became disabled, for which he approached the Commissioner of Workmen's Compensation and accordingly, the Commissioner of Workmen's Compensation awarded a compensation of Rs.5,20,584/- to the respondent No.2. The respondent No.2 thereafter approached the Commissioner of Persons with Disabilities seeking benefits as per the provision prescribed in Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act of 1995').

The only question raised in this writ petition is that while respondent No.2 already got compensation under the Workmen's Compensation Act, whether he is entitled to get the benefits under Section 47 of the Act of 1995.

Section 47 of the Act of 1995 reads as follows :-

"47. Non-discrimination in Government employments. - (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this Section."

In view of the above provision, the respondent No.2 in addition to what he got by way of compensation for the disability suffered by him pursuant to order of the Workmen's Compensation Tribunal, he is entitled to the benefits as ordered by the Commissioner of Persons with Disabilities, Government of Tripura. I cannot agree with the submission of learned counsel, Mr. Chakraborty, that the respondent No.2 is not entitled to get the benefits as directed by the Commissioner of Persons with Disabilities. In the impugned order dated 20.04.2013 in Case No. 30/2012 the Commissioner of Persons with Disabilities passed the following order :-

"From the discussion made above it is also clear that the petition is maintainable under Section 47 of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the petitioner cannot be denied the entitlement by stating the fact that Rs.5,20,584/- was paid to him as compensation as per order of the Ld. Commissioner for Workmen's Compensation Act.

It is hereby directed that the TSECL should take steps to reinstate Shri Sabar immediately and to make payment of his arrear salaries etc. Alternative job shall be provided to him and if it is not possible to adjust the employee against any post, he shall be kept on supernumerary post until a suitable post is available or he attains the age of superannuation whichever is earlier."

The above direction given by the Commissioner of Persons with Disabilities, in my considered opinion, is according to the provision prescribed under the Act of 1995 and hence, no interference is called for in the impugned order.

In view of the above discussion, the writ petition is found to be devoid of any merit and hence, stands dismissed.