

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.32928 of 2016

Between:

Y. Sahadeva Reddy

PETITIONER

And

1. The Commissioner of Technical Education, State of Andhra Pradesh, 6th Floor, B.R.K. Bhavan, Tank Bund, Hyderabad, and others.

RESPONSENTS



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.32928 of 2016

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Aggrieved by the dismissal of his application by the A.P. Administrative Tribunal, wherein he challenged an order of transfer, the petitioner is before us.

2. Heard Mr. S. Jagadish, learned counsel for the petitioner and learned Government Pleader for Services.

3. Normally, we would never interfere with an order of transfer. The Tribunal correctly applied the principles of law relating to the power of the Tribunal/Court to interfere with the orders of transfer. But in the case on hand, the petitioner claims to be a person with disability, which is estimated at 62%. The certificate dated 24.03.2016 issued by a Committee of Members in terms of G.O.Ms.No.31, dated 01.12.2009 has been filed.

4. According to the learned Government Pleader, the petitioner never communicated to the respondents about the disability and that there is no indication that the certificate was registered in the service records. But according to the petitioner, he made a representation on 30.03.2016 itself to record the disability.

5. Irrespective of whether the petitioner has made an application earlier or not, if it is actually true that the petitioner is suffering from a physical disability 62%, then his case would fall under the Central Act, 1/1996. Under Section 2(i), a disability is defined to mean and include 'hearing impairment'. Under Section 2(l), the expression 'hearing

impairment' is defined to mean loss of 60 decibels or more in the better ear in the conversational range of frequencies.

6. If the certificate produced by the petitioner is genuine and if it is issued by a competent authority, then the case of the petitioner would fall within the above definitions.

7. Once the above is very clear then the next question is one of protection afforded under the Act. If the respondents were not aware of the disability suffered by the petitioner, they may not have taken a decision to transfer him. But today it remains a matter of conjectures. Therefore, we are of the considered view that the petitioner should make a representation along with a copy of the disability certificate and the respondents should consider the same and pass appropriate orders.

8. Therefore, the Writ Petition is disposed of modifying the order of the Tribunal and directing the petitioner to submit a representation along with a copy of the disability certificate to the first respondent. Within two weeks of such representation being submitted, the 1st respondent shall consider the same and if the certificate had been issued by a competent authority, the 1st respondent shall take the same into account and pass appropriate orders in accordance with law.

9. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE G. SHYAM PRASAD

22nd December, 2016
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.32928 of 2016



Date: 22-12-2016

Js.