

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.A.(SR).No. 213809 OF 2016

DATED 21ST AUGUST, 2017

Between:

The Telangana State Road Transport Corporation,
Rep. by its Joint Managing Director,
Bus Bhavan, Musheerabad,
Hyderabad, and others

... Appellants

AND

Ch.Joseph

... Respondent

Counsel for the appellants : Sri N.Vasudeva Reddy

Counsel for the respondent : Sri A.G.Satyanarayana Rao



THE COURT MADE THE FOLLOWING

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The Telangana State Road Transport Corporation and its functionaries filed this Writ Appeal against order dated 10-03-2016 in W.P.No. 5164 of 2016, whereby a single judge allowed the Writ Petition filed by the respondent by directing the appellants to provide suitable alternative post of Sramik to the respondent with all consequential benefits including payment of salary from the date on which he was declared medically unfit till the date of providing alternative post in terms of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, 'the Act').

2. At the hearing, Sri N.Praveen Reddy, learned counsel, representing Sri N.Vasudeva Reddy, learned standing counsel for T.S.R.T.C., placed reliance on the order of the Supreme Court in Civil Appeal No. 3529 of 2017 and batch and submitted that in the said order, the Supreme Court has reversed the judgment of a Division Bench of this Court, whereby the judgment of a learned single judge in a batch of cases was confirmed, holding that for claiming benefit under Section 47 of the Act, disability need not fall under Section 2 (i) of the Act. A perusal of this order shows that the Supreme Court has approved the view in ***Hawa Singh Vs. Delhi Transport Corporation***¹ and ***Kumar Bharat Prasad Narain Singh Vs. Airport Authority of India***² and held that the view taken by this Court in line with that taken in ***G.Muthu Vs. Management of Tamil Nadu State Transport Corporation (Madurai) Limited***³ is not a correct view. Accordingly, while allowing the civil appeals, it has left the appellants-corporation free to take a decision on individual grievances of the employees. The employees were also given liberty to take their remedies in terms of the order.

¹ 2012 (3) LLJ 564

² 2005 (5) AD (Del.) 513

³ 2006 (4) Mad.L.J. 1669

3. Sri A.G.Satyanarayana Rao, learned counsel for the respondent, submitted that his client suffers from colour blindness; that as per the judgment in ***Union of India and others Vs. Suresh Kumar***⁴ rendered by Delhi High Court, colour blindness is also a part of blindness falling under Section 2 (i) of the Act and that the said judgment was followed in ***Hawa Singh*** (*supra*). Sri N.Praveen Reddy, learned counsel, brought to the notice of this Court the judgment in ***Union of India Vs. Devendra Kumar Pant and others***⁵, wherein the Apex Court has opined that lack of colour perception is neither blindness nor low vision and therefore apparently not a disability under the Act.

4. Inasmuch as the Apex Court while setting aside the judgments of this Court gave liberty to the employees to approach the Corporation which was directed to take appropriate decisions on individual cases, we are of the opinion that it is not appropriate for us to decide whether individual case falls under Section 2 (i) of the Act or not. It is for the Corporation to take an informed decision, if necessary by consulting medical experts on the nature of disabilities in respect of individual employees. Therefore, as directed by the Supreme Court, the respondent is permitted to make a detailed representation to the appellants. The appellants must consider and pass a detailed speaking order within two months from the date of receipt of such representation and communicate the same to the respondent.

⁴ W.P.(C) 9443/2007 dated 17-12-2007

⁵ AIR 2010 SC 1253

5. Subject to the above, the order of the learned single judge under appeal is set aside. The Writ Appeal is accordingly allowed.

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 21-08-2017.

JSK

