

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

W.A.No.1441 of 2017

Date : 23-08-2017

Between:

Andhra Pradesh State Road Transport
Corporation, represented by its Managing Director,
RTC House, Vijayawada and others ... Appellants

AND

M. Bhaktavachala Reddy ... Respondent

Counsel for the appellants : Sri Aravala Rama Rao
Counsel for the respondent : Sri A. Satyanarayana Rao



THE COURT MADE THE FOLLOWING

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

The Andhra Pradesh State Road Transport Corporation and its functionaries filed this Writ Appeal against order dated 1-7-2015 in W.P.No.16447 of 2015, whereby the learned single judge allowed the Writ Petition by directing the appellants to fix pay scale of the respondent in the post of Driver Grade-II in the alternative post of Record Tracer with all consequential benefits of service 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 Aravala Rama Rao, learned standing counsel for A.P.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 disability need not fall under Section 2 (i) of the Act for claiming benefit under Section 47 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

¹ 2012 (3) LLJ 564

² 2005 (5) AD (Del.) 513

³ 2006 (4) Mad.L.J. 1669

the employees. The employees were also given liberty to avail their remedies in terms of the order.

3. 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 the disability in the present 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 per the order of the Supreme Court, the respondent is permitted to make a detailed representation to the appellants. The appellants shall consider the representation, pass a detailed speaking order within two months from the date of receipt of such representation and communicate the same to the respondent.

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

5. As a sequel to disposal of the Writ Appeal, W.A.M.P.No.2693 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 23-08-2017.

AM