

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
&
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.A.No.1117 of 2017

Date : 16-8-2017

Between:

The A.P.S.R.T.C.,
Represented by its Vice Chairman &
Managing Director, Musheerabad,
Hyderabad and others

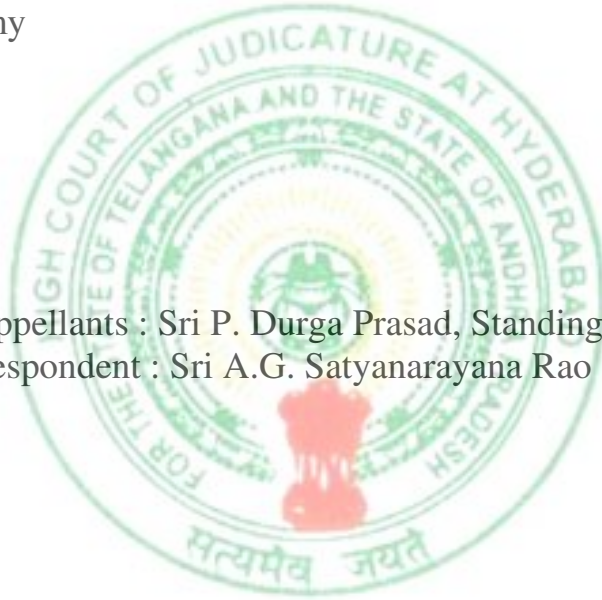
.. Appellants

And

B. Bala Swamy

.. Respondent

Counsel for appellants : Sri P. Durga Prasad, Standing Counsel
Counsel for respondent : Sri A.G. Satyanarayana Rao



The Court made the following :

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

The respondent was a driver in appellant No.1-Corporation. As he was declared unfit for the post of Driver due to defective distant vision and disc related problems at C3-C4, C4-C5 and C5-C6, he was provided with alternative employment as a Shramik. However, his pay as Driver was not protected by the Corporation. The respondent has therefore filed W.P.No.25476 of 2015 for a mandamus to declare the action of the appellants in not extending the benefit of protecting his pay under Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 (for short "the Act"). By order dated 1-9-2015, the learned single Judge has allowed the said Writ Petition by directing the appellants to fix the pay-scale of the respondent as applicable to the post of Driver and also pay him salary during the interregnum from 1-9-2014 to 10-12-2014. Feeling aggrieved by this order, the present Writ Appeal is filed by the A.P. State Road Transport Corporation and its functionaries.

At the hearing Sri P. Durga Prasad, learned Counsel for the appellants, submitted that the respondent was appointed as a Shramik based on Circular No.PD-16/2008, dated 25-2-2008, issued by the Corporation and not in pursuance of Section 47 of the Act. He has further submitted that the defective distant vision and other ailments pertaining to the backbone do not fall within any of the categories of the ailments included under Section 2(i) of the Act. He has placed reliance

on order dated 23-2-2017 of the Supreme Court in Civil Appeal No.3529 of 2017 wherein the Judgment of the learned single Judge of this Court, as confirmed by the Division Bench, was reversed holding that the benefit of Section 47 of the Act will be available only to those covered by Section 2(i) of the Act. The learned Counsel further submitted that the Supreme Court has left it open to the Corporation to take a decision on the individual grievances of the employees while leaving the latter free to take remedies in terms of the said order.

The learned Counsel for the respondent strenuously argued that the ailments suffered by his client fall within the definition of Section 2(i) and also Section 2(o) of the Act. This submission is disputed by the learned Standing Counsel for the appellants.

The learned Standing Counsel for the appellants has placed before us order dated 5-7-2017 arising in a similar case, in W.A.No.187 of 2017. A perusal of this order shows that the Division Bench has reversed the order passed by the learned single Judge in a batch of cases directing the Corporation to provide alternative employment to the petitioners therein in terms of the provisions of Section 47 of the Act and pay the salaries and emoluments till alternative employment was provided to them. Following the aforementioned order of the Supreme Court, the Division Bench directed the appellants-Corporation to take a decision on the individual grievance of the employees with utmost

expedition, preferably within three months from the date of receipt of a copy of the order.

As the respondent stands on a similar footing to those in W.A.No.187 of 2017, the order under appeal is set-aside. The respondent is permitted to make a detailed representation in terms of the observations of the Supreme Court in the order dated 23-2-2017 in Civil Appeal No.3529 of 2017. On such representation being made, the appellants shall consider, take appropriate decision and communicate the same to the respondent within a period of three months from the date of receipt of such representation.

The Writ Appeal is accordingly allowed subject to the above observations and directions.

As a sequel to the disposal of the Writ Appeal, WAMP No.2125 of 2017 filed for interim relief is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Justice Gudiseva Shyam Prasad

Date : 16-08-2017

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