

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

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT APPEAL No. 1164 OF 2017

DATED 22ND AUGUST, 2017

Between:

The Managing Director & Vice Chairman,
TSRTC, Bus Bhavan, Musheerabad,
Hyderabad, and others

... Appellants

AND

Pagi Sudhakar

... Respondent

Counsel for the appellants

:

Sri B.Mayur Reddy

Counsel for the respondent

:

Sri B.Pradeep Kumar



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 29-09-2016 in W.P.No. 33513 of 2016, whereby learned 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 B.Mayur 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 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 the employees. The employees were also given liberty to avail 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. 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. 2214 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 22-08-2017.

JSK