

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

WRIT APPEAL NO.591 OF 2013

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in WP.No.4619 of 2012 dated 31.07.2012 whereby the appellant-Corporation was directed to provide suitable alternate employment to the petitioner, duly taking into consideration his medical condition, with continuity of service and pay protection for the period he remained out of service. The learned Single Judge directed that the respondent-writ petitioner's pay-scale and service benefits be duly protected as per the first proviso to Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ("the Act" for brevity).

Pursuant to the order under appeal, the appellant-Corporation has provided the respondent-writ petitioner alternate employment, and has also paid him 50% of the back-wages for the period he was kept out of employment.

The Supreme Court in Civil Appeal No.3529 of 2017 and batch dated 23.02.2017 approved the view taken by the Delhi High Court in **Hawa Singh v. Delhi Transport Corporation**¹ and **Airport Authority of India v. Kumar Bharat Prasad Narain Singh**², and observed that the schemes of the Andhra Pradesh and the Telangana Transport Corporations covered even those

¹ Judgment in W.P.(C) No.7880 of 2011

² Judgment in L.P.A.No.1601 of 2005 dated 14.12.2005

employees who were not covered by Section 2(i) of the Act; and it is only those employees, covered under Section 2(i) of the Act, who are entitled to the benefits of Section 47 of the Act.

Following the said judgment we had, in the order passed by us in WA.No.380 of 2017 and batch dated 05.06.2017, disposed of the appeals holding that the benefit of Section 47 of the Act shall be available only to those who are covered by the disabilities specified in Section 2(i) of the Act, it was open to the appellant-Corporation to take a decision, on individual grievances of the respondent-writ petitioners, with utmost expedition preferably within three months from the date of receipt of a copy of the order; and it was also open to the respondent-writ petitioner thereafter to avail their remedies in terms of the judgment of the Supreme Court.

While Sri P. Durga Prasad, learned Standing Counsel for the appellant-Corporation, would contend that the respondent-writ petitioner was reinstated in compliance with the orders passed by the learned Single Judge, Sri S.M. Subhan, learned counsel for the respondent-writ petitioner, would submit that it is only because the respondent was found to suffer from the disabilities under Section 2(i) of the Act was he provided alternate employment and paid 50% of the back-wages in the year 2013 itself.

In the light of the order of the Supreme Court in Civil Appeal No.3529 of 2017 and batch dated 23.02.2017, we consider it appropriate to dispose of this Writ Appeal in terms thereof, and in terms of the order in WA.No.380 of 2017 dated 05.06.2017. The appellant shall consider the respondent-writ petitioner's case as directed in the aforesaid orders. Pending a final decision being

taken by the Corporation, and the said decision being communicated to the respondent-writ petitioner, the appellant shall continue the respondent-writ petitioner in service. The balance 50% payable to the writ petitioner shall await the outcome of the decision to be taken by the Corporation in this regard. The amount already paid to the respondent-writ petitioner shall not be recovered till a final decision is taken by the appellant-Corporation.

The Writ Appeal is, accordingly, disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

13th June 2017
RRB

