

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL No.1574 of 2017

26.10.2017

Between:

Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.),
represented by its Vice Chairman & Managing Director,
Vijayawada, Amaravathi and others

..Appellants

and

K.Mahammad

..Respondent

Counsel for the appellants: Mr.Aravala Rama Rao, standing counsel for A.P.S.R.T.C.

Counsel for respondent: Mr.S.D.Goud

The Court made the following:



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

This writ appeal arises out of order, dated 10.11.2016, in W.P.No.38713 of 2016, whereby the learned Single Judge allowed the said writ petition and directed the appellants to consider the case of the respondent for protection of pay scale and service benefits under Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act').

2. We have heard the learned counsel for both sides and perused the record.

3. Mr.Aravala Rama Rao, learned standing counsel for the Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.) appearing for the appellants, has submitted that judgment, dated 08.06.2016, in W.A.No.1120 of 2015 and batch, whereby, while dismissing the writ appeals, the judgment of a learned single judge in a batch of writ petitions was confirmed by a Division Bench by holding that the disability need not fall under Section 2 (i) of the Act for claiming the benefits under Section 47 of the Act, was reversed by the Apex Court in Civil Appeal No.3529 of 2017 and batch filed by the Corporation, *vide* its order, dated 23.02.2017. A perusal of this order shows that the Apex Court 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.

¹ 2012 (3) LLJ 564

² 2005 (5) AD (Del.) 513

³ 2006 (4) Mad.L.J. 1669

Accordingly, while allowing the Civil Appeals, the Apex Court left the 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 said order.

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 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 the disabilities in respect of the individual employees. Therefore, as per the order of the Apex Court, the respondent is permitted to make a detailed representation to the appellants. The appellants shall consider such representation, pass a detailed speaking order within a period of two months from the date of receipt of said representation and communicate the same to the respondent.

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

6. As a sequel to allowing the Writ Appeal, W.A.M.P.No.2922 of 2017 filed by the appellants for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

