

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

WRIT APPEAL No.1652 of 2017

Date: 24.10.2017

Between:

The Telangana State Road Transport Corporation,
Rep. by its Managing Director, Musheerabad, Hyderabad
& others

..Appellants

And

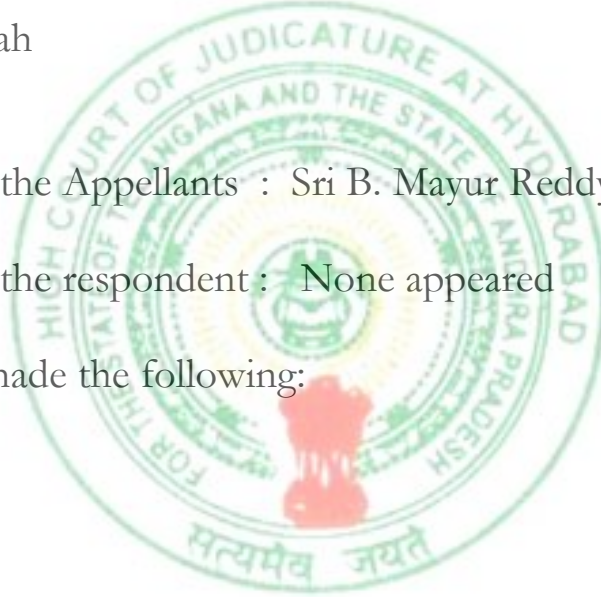
M. Kumaraiah

..Respondent

Counsel for the Appellants : Sri B. Mayur Reddy

Counsel for the respondent : None appeared

The Court made the following:



HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI
WRIT APPEAL No.1652 of 2017

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

This appeal is filed against the order dated 04.04.2016 in WP No.9741 of 2016.

Though notice has been served on the respondent, he has not entered appearance.

We have heard Mr. B. Mayur Reddy, learned standing counsel for the appellants and perused the record.

The respondent has filed the afore mentioned writ petition, seeking protection of Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (for short 'the Act'). Following the judgment dated 03.10.2012, the learned single Judge has allowed the writ petition.

At the hearing, Mr. B. Mayur Reddy, learned standing counsel for the appellants has submitted that the afore mentioned judgment, as affirmed in a batch of writ appeals, holding that disability need not fall under Section 2(i) of the

Act for claiming benefit under Section 47 of the Act was set aside the by the Apex Court in Civil Appeal No.3529 of 2017 & batch. 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.

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 in 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

¹ 2012(3) LLJ 564

² 2005(5) AD (Del.) 513

³ 2006(4) Mad. L.J. 1669

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.

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

As a sequel to disposal of the Writ Appeal, W.A.M.P. (SR) No.245497 of 2016 shall stand closed as infructuous.

C.V. NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

Date: 24.10.2017.
Bss/Gk.

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WRIT APPEAL No.1652 of 2017
(per Hon'ble Sri Justice C.V. Nagarjuna Reddy)



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Bss/Gk.