

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.A. No. 397 of 2018

JUDGMENT:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This Writ Appeal is preferred against the order dated 19.12.2017 in W.P.No. 24618 of 2017 passed by learned Single Judge of this Court, whereby, the writ petition filed by the respondent herein was allowed directing the appellants to issue order of appointment to the respondent within fifteen days from the date of receipt of copy of the order as there is no allegation of disqualification of the respondent on any other ground except on the ground that he was a diabetes patient.

The learned Single Judge, in the impugned order, has observed as under:

“In the instant case also, the respondents tried to justify their action on the ground that the petitioner should be free from any progressive illness, which may affect his performance in future and ultimately may result in pre-mature retirement on account of medical grounds. It was stated that Diabetes, being a progressive disease, is likely lead to secondary complications on account of involvement of various organs such as Eyes, Kidneys, Heart and Nervous System. Though the petitioner submitted a representation on 09.02.2017 for re-medical examination to find out his medical fitness, his case was not considered in view of above reasons. The very declaration issued by the Medical Officer in the instant case is doubtful in view of contra evidence produced by the petitioner from various Diagnostic laboratories.

Even if the petitioner is a diabetes patient, he cannot be denied employment on that ground.”

This Court, by order dated 23.04.2018, directed the respondent to present himself before the Main Hospital, Kothagudem, for re-examination to ascertain as to whether he has any blood sugar and whether he is inclined to diabetes mellitus. It is further directed that the hospital shall conduct HbA1c test to ascertain as to whether the respondent is inclined towards diabetes.

In pursuance of the aforesaid order, the respondent approached the main Hospital, Kothagudem, however found that HbA1c test was not available. Therefore, he was referred to Vimta Laboratory, wherein he was medically examined on 19.05.2018 and found that he had 5.7% HbA1c. In that report, it is specifically stated that any person, whose HbA1c is less than 5.6%, is treated as non-diabetic, if it is between 5.7% and 6.4%, he is in pre-diabetic stage, and if it is greater than 6.5%, such person is declared as Diabetic patient. The letter dated 02.06.2018 issued by the Chief Medical Officer, Sngareni Collieries Company Limited, Kothagudem reveals that when the respondent was examined on 17.06.2016, his HbA1c was 6.0% on 20.08.2016, it was 6.3% and on 19.05.2018, it was 5.7%. It is specifically stated that the respondent is in pre-diabetic stage and prone to diabetes.

From this, it is clear that as on date, the respondent is not diabetic patient.

In view of the facts recorded above, we find no ground to interfere with the well-reasoned order dated 19.12.2017 in W.P.No. 24618 of 2017 passed by learned Single Judge of this Court.

Hence, the Writ Appeal is devoid of merit and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

06.06.2018

bcj

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

