

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.5364 of 2013

ORDER:

The second respondent was appointed as Monthly Paid Worker on 30.11.2001 in the petitioner Corporation and thereafter, he was promoted as Seaman and Seaman Helmsman with effect from 30.12.2006 and 18.07.2008 respectively. While he was working as DR-Aquarius at Paradip, he was signed off on 21.03.2009 for three (03) weeks. Basing on the report of the Company Doctor at Paradip stating that the second respondent was suffering from irregular fever, severe body pains and weakness and advise to repatriate him to his home town i.e., Visakhapatnam, he was repatriated. Thereafter, the second respondent sent a telegram stating that he was admitted in hospital as per the advice of the Doctor. The petitioner's company doctor examined the second respondent and issued a certificate on 28.07.2010 stating that the second respondent is permanently unfit for Sea service. Accordingly, an order was passed on 19.10.2010 discharging the second respondent from the services of the Corporation with effect from 28.07.2010. As per agreement entered into between INSA-NUSI/FSUI (NMB) of 2006-2008 and 2008-2010, the second respondent was paid an amount of Rs.10,11,749/- towards terminal benefits, treatment charges etc. After receiving the said terminal benefits, the second respondent lodged a complaint before the first respondent under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, 'the Act'), seeking employment. The first respondent issued a show-cause

notice to the petitioner and the petitioner submitted a detailed explanation on 14.05.2012 explaining the facts. The petitioner company took a stand that the provisions of said Act are not applicable in the facts and circumstances of the case in respect of the second respondent. However, when the first respondent passed an order on 01.01.2013 advising the petitioner to pay half of the salary to the second respondent from the date he was out of employment till the matter is finally disposed of, the present writ petition was filed.

2. This Court by an order dated 22.02.2013, suspended the said order and seeking vacation of the said order, W.V.M.P.No.3980 of 2016 was filed.

3. In view of filing of said W.V.M.P., the main writ petition is taken up for consideration and is being disposed of after hearing learned counsel for the petitioner and learned counsel for the second respondent.

4. The facts stated in the affidavit filed in support of the writ petition as above are not disputed by the second respondent. Admittedly, the order dated 01.01.2013, was an interim order and the same was suspended by this Court and the said order of suspension has been in operation till today. The main proceedings are pending before the first respondent and in the meanwhile, Act 1 of 1995 was Repealed and new Act "Rights of Persons with Disabilities Act, 2016" came into force with effect from 19.04.2017. The earlier provision of Section 47 of the Act is incorporated in Section 20 (4) of the Rights of Persons with Disabilities Act, 2016. Since the main proceedings are pending before the first

respondent, the first respondent is directed to dispose of the same pursuant to the complaint of the second respondent, dated 27.02.2012, within a period of six months from the date of receipt of a copy of this order after giving due opportunity to the petitioner and the second respondent. The interim order of suspension granted by this Court shall continue till final orders are passed by him.

5. The Writ Petition is, accordingly, disposed of. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

JANUARY 04, 2018
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO



WRIT PETITION No.5364 of 2013

Date: 04.01.2018

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