

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT APPEAL Nos. 56, 59, 61, 67, 68 and 80 of 2017

Date: 12.04.2019

Between:

The Telangana State Road Transport Corporation and others

...Appellants

and

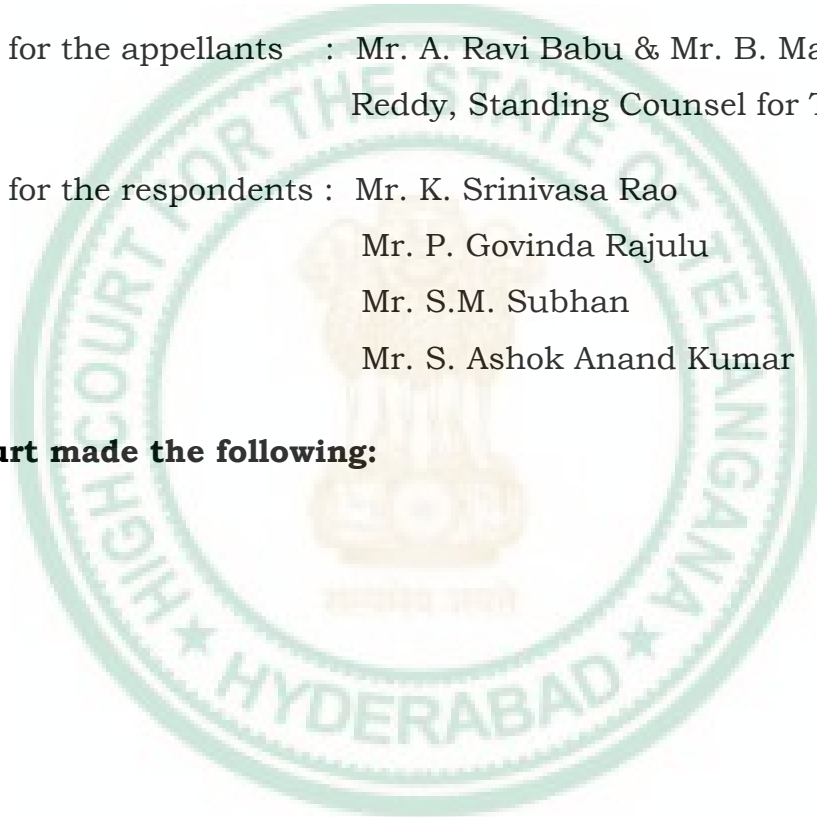
D. Vykuntam and others.

...Respondents

Counsel for the appellants : Mr. A. Ravi Babu & Mr. B. Mayur
Reddy, Standing Counsel for TSRTC

Counsel for the respondents : Mr. K. Srinivasa Rao
Mr. P. Govinda Rajulu
Mr. S.M. Subhan
Mr. S. Ashok Anand Kumar

The Court made the following:



COMMON JUDGMENT: (Per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)

All these appeals arise out of the same impugned order dated 21.09.2016 passed by a learned Single Judge in W.P.No.24834 of 2016, W.P.No.25577 of 2015, W.P.No.30228 of 2016, W.P.No.30504 of 2016, W.P.No.30231 of 2016 and W.P.No.30326 of 2016, whereby the learned Single Judge has noticed as under:

"The individual facts in each case are not being dealt with separately in view of subject matter in all these writ petitions falling in one or other situations detailed below. The cases can be broadly classified into three categories, which are as follows:

- (1) *The cases of the employees who were declared as unfit by the Medical Officer of the corporation and were denied alternative employment, but were asked to retire from service by taking monetary benefits or otherwise. In such cases, the respondent corporation has to provide employment in accordance with the directions of the learned single Judge and as confirmed by a Division Bench by taking into consideration the observations made in respect of the persons who received benefits as mentioned in para 43 (a) thereof.*
- (2) *In respect of employees who were provided with alternative employment, but pay was fixed to them applicable to the post given to them as alternative employment. In such cases, the petitioners are entitled to pay and allowances attached to the post at the time of declaring them as unfit and they are entitled to arrears and pay allowances with interest at 8% per annum from the said date till the date of payment and that protection shall be continued along with annual increments till the date of their superannuation.*
- (3) *In respect of employees, to whom even after providing alternative employment pursuant to the provisions of the Act after declaring them as unfit, no wages were paid to them from the date of declaring them as unfit to the date of joining in the alternative employment and in respect of those employees, they are entitled to pay and allowances admissible to the post held by them at the time of declaring them as unfit and those pay and allowances for the interregnum period shall be paid to them subject to second category as indicated above.*

In view of the above, the respondents are directed to examine each individual case and take necessary steps for implementing the provisions of the Act in the light of the order passed by the learned single Judge and as confirmed by a Division Bench, within a period of three months from the date of receipt of a copy of this order. The petitioners are entitled to move this Court under Contempt of Courts Act if the individual cases are not considered and the above order is not implemented. In case of non application of this order in respect of any case, the respondents are at liberty to pass a speaking order.”

Both Mr. A. Ravi Babu and Mr. B. Mayur Reddy, the learned Standing Counsel for the Telangana State Road Transport Corporation, submit that a series of writ petitions were filed before this Court by the aggrieved employees of the Andhra Pradesh State Road Transport Corporation and the Telangana State Transport Corporations, where their grievance was that the benefit of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (“the Act” for short) was not being given to them. Therefore, in a series of judgments, this Court had directed the Transport Corporations to provide alternative employment and to give the benefit of Section 47 of the Act to the petitioners in those writ petitions. However, subsequently, in the case of **Andhra Pradesh State Road Transport Corporation represented by its Managing Director and others vs. B.S.Reddy**, Civil Appeal No.3529 of 2017, decided on 23.02.2017, the Hon’ble Supreme Court has clearly opined that no distinction can be made with regard to the expression “*disability*” contained in Section 2(i) of the Act and Section 47 of the Act.

Moreover, in W.A.No.1254 of 2016 and batch, where the same issue had arisen, by judgment dated 22.06.2017, a learned Division Bench had directed the Transport Corporations to consider the representations filed by the respondents in the said writ appeals, to

consider the cases on individual basis, and to decide whether the benefit of Section 47 of the Act should be given or not.

It has also been brought to the notice of this Court that a large number of schemes have been floated by the appellant-Transport Corporation itself for dealing with the cases of drivers and other employees, who may have suffered disability during the course of their employment with the Transport Corporation. All these schemes are beneficial in nature.

Therefore, the appellant-Transport Corporation is directed to issue a Circular informing all the employees, who have acquired disability during the course of their employment with the Corporation, and to submit representations with regard to seeking the benefit of Section 47 of the Act or the benefit of the schemes floated by the Corporation itself. A period of one month shall be given to the employees for submitting their representations. Having received the said representations, the appellant-Transport Corporation is directed to consider and decide the representations within the period of three months from the date of receipt thereof, after giving an opportunity of personal hearing to each employee.

With these directions, these Writ Appeals stand disposed of. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A. RAJASHEKER REDDY, J)

12th April, 2019
JSU

High Court for the State of Telangana**THE HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN****AND****THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY****WRIT APPEAL Nos. 56, 59, 61, 67, 68 and 80 of 2017****(Per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)****Date: 12.04.2019****JSU**