

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT APPEAL No.841 of 2019

Date: 22.01.2020

BETWEEN

The State of Telangana,
Rep. by its Principal Secretray,
Secretariat, Hyderabad and another.

... APPELLANTS

AND

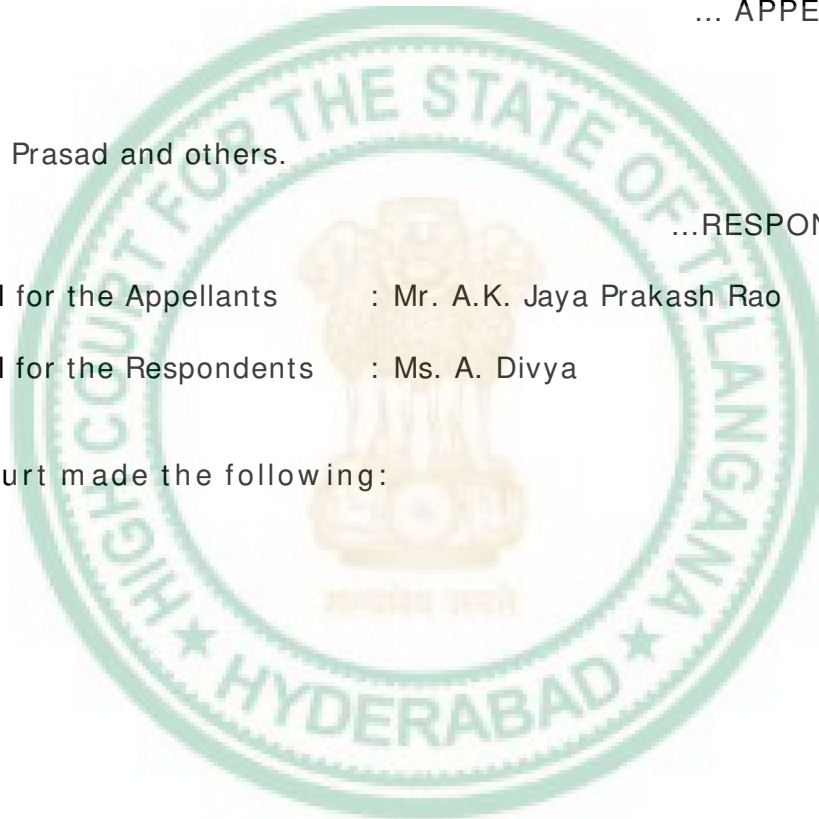
M. Ajay Prasad and others.

...RESPONDENTS

Counsel for the Appellants : Mr. A.K. Jaya Prakash Rao

Counsel for the Respondents : Ms. A. Divya

The Court made the following:



JUDGMENT: { Per the Hon'ble the Chief Justice Sri Justice Raghvendra Singh Chauhan}

The appellants are aggrieved by the order dated 17.09.2019, passed by a learned Single Judge in WP.No.12008 of 2018, whereby the learned Single Judge has concluded that the petitioners are also entitled to similar benefits as in the case of persons who were extended such benefits vide proceedings dated 05.12.2016.

2. Learned counsel for the appellants submits that he had raised a contention before the learned Single Judge that the petitioners therein had taken the benefit of the voluntary retirement scheme. Therefore, they are not entitled to the relief prayed for by them.

3. However, the said contention is not reflected in the impugned order. The only contention reflected in the impugned order is that the appellants – respondents had claimed before the learned Single Judge that since the petitioners had withdrawn their WP.No.8391 of 2005 they are not entitled to seek the benefit prayed for by them.

4. In catena of cases, the Hon'ble Supreme Court has clearly opined that if a contention were raised by a party which is not reflected in the order passed by the Court, the only remedy available to the said party is to file a review petition before the concerned Court. For, it is not possible for the appellate Court to know what transpired before the concerned Court when the case was argued. The Hon'ble Supreme Court is also of the opinion that even if the party were to plead before the appellate Court, upon an affidavit, that in fact certain contentions were raised before the learned Court, even such an affidavit should not be accepted. For, to accept such an affidavit or to accept such a plea would create chaos. Therefore, if the appellants are of the opinion that they had raised a particular contention which has not been recorded by the learned Single Judge, the only remedy that

is available to the appellants is to file a review petition before the concerned Court.

Therefore, this Court does not find any merit in the writ appeal; it is, hereby, dismissed.

As a sequel, the miscellaneous petitions, pending if any, shall stand dismissed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

January 22, 2020
DSK

