

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**MONDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT APPEAL NO: 1484 OF 2016

Writ Appeal under clause 15 of the Letters Patent against the order dt. 21-9-2016 passed in WP.No.13815/2013 on the file of the High Court.

Between:

1. The Andhra Pradesh State Road Transport, Corporation, Rep. by Its Vice Chairman and Managing Director, Musheerabad, Hyderabad.
2. The Regional Manager, Andhra Pradesh State Road Transport Corporation, Warangal Region, at Warangal.
3. The Depot Manager, Andhra Pradesh State Road Transport Corporation, Warangal-II, Warangal District.

..APPELLANTS

AND

N. Sudhakar, S/o Kananiah, aged 55 years, Occ Driver, E.No.302160, Warangal -II Depot, R/o Ganesh Nagar, Hanumakonda, Warangal District.

..RESPONDENT

I.A. NO: 2 OF 2016(WAMP. NO: 3152 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the order passed in WP.No.13815 of 2013, dt. 21-09-2016.

Counsel for the Appellants: SRI THOOM SRINIVAS, SC FOR TSRTC

Counsel for the Sole Respondent: SRI S.M.SUBHAN

The Court delivered the following: JUDGMENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT APPEAL No.1484 OF 2016

JUDGMENT: (Per Hon'ble Sri Justice Abhinand Kumar Shavili)

When the matter is taken up for hearing, learned Standing Counsel appearing for the appellants has informed the Court that the issue raised in the present Writ Appeal is squarely covered by the common judgment, dated 06.02.2024, rendered by this Court in W.A.No.1250 of 2016 and batch, and in terms of the said common judgment, the present Writ Appeal also deserves to be allowed.

2. Learned counsel for the respondent did not dispute the said fact.

3. In view of the said submissions, this Court is of the considered view that the present Writ Appeal also deserves to be allowed in terms of the common judgment, dated 06.02.2024, rendered by this Court in W.A.No.1250 of 2016 and batch.

4. Accordingly, the Writ Appeal is allowed in terms of the common judgment, dated 06.02.2024, rendered by this Court in W.A.No.1250 of 2016 and batch. There shall be no order as to costs.

Miscellaneous Applications, if any, pending in this appeal, shall stand closed.

//TRUE COPY//

SD/- K. SRINIVAS RAO
JOINT REGISTRAR
SECTION OFFICER

To,

1. The Vice Chairman and Managing Director, Telangana State Road Transport Corporation, Musheerabad, Hyderabad.
2. The Regional Manager, Telangana State Road Transport Corporation, Warangal Region, at Warangal.
3. The Depot Manager, Telangana State Road Transport Corporation, Warangal-II, Warangal District.
4. The Section Officer, Posting Section, High Court for the State of Telangana at Hyderabad.
5. The Section Officer, Writ Service Section, High Court for the State of Telangana at Hyderabad.
6. One CC to SRI THOOM SRINIVAS, SC FOR TSRTC [OPUC]
7. One CC to SRI S.M.SUBHAN, Advocate [OPUC]
8. Two CD Copies

(Along with the copy of order dated 06.02.2024, in W.A.No.1250 of 2016)

BSR
GJP



HIGH COURT

DATED: 19/02/2024

JUDGMENT

WA.No.1484 of 2016



**ALLOWING THE WRIT APPEAL,
WITHOUT COSTS**

⑧ VLV
21/5/24

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO
WRIT APPEAL Nos.1250, 1401 AND 1478 OF 2016**

COMMON JUDGMENT: (Per Hon'ble Sri Justice Abhinand Kumar Shavili)

Since the issue involved in all these Writ Appeals is one and the same, all these Writ Appeals are being heard together and disposed of by way of this common judgment.

2. All these Writ Appeals are filed aggrieved by the orders, dated 17.12.2014, 22.03.2016 and 09.02.2016, passed in W.P.Nos.27329 of 2014, 37388 of 2015 and 4188 of 2014, respectively, by learned Single Judge of this Court.

3. For the sake of convenience, the facts and the submissions made in W.A.No.1401 of 2016 are hereunder discussed.

4. Heard Sri G. Vidya Sagar, learned Senior Counsel representing Sri N. Vasudeva Reddy, learned Standing Counsel for Road Transport Corporation (RTC) appearing for the appellants and Sri V. Narasimha Goud, learned counsel for the respondent.

5. Learned Senior Counsel appearing for the appellants had contended that the respondent was appointed as a Driver with the appellant-Corporation in the year 1990. Subsequently, on

11.03.2013, he was declared unfit for the post of Driver, as he was suffering from Cortical Sinus Venous Thrombosis Seizures. Therefore, the respondent has submitted a representation to the appellants seeking to provide alternative employment as 'Shramik'. Learned Senior Counsel further contended that initially the respondent was provided with alternative employment of Conductor *vide* proceedings, dated 25.07.2013, but the respondent declined to take up the alternative employment of Conductor and requested to provide alternative employment of 'Shramik'. Accordingly, the appellants have provided alternative employment of 'Shramik' to the respondent *vide* proceedings dated 23.07.2014. Aggrieved by the action of the appellants in not extending the benefits under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, 'the Act'), the respondent has approached this Court by filing the subject W.P.No.27329 of 2014 contending that he should be extended the benefits under Section 47 of the Act. The learned Single Judge of this Court allowed the subject Writ Petition *vide* impugned order, dated 17.12.2014, by following the order, dated 25.09.2012, passed by another learned Single Judge of this Court in W.P.No.22269 of 2012, without

appreciating any of the contentions raised by the appellants. Hence, the present Writ Appeal is filed.

6. Learned Senior Counsel appearing for the appellants had further contended that the disability of the respondent is not attracting the term 'disability' as set out in Section 2 (i) of the Act and hence, the question of extending the benefits under Section 47 of the Act to the respondent would not arise. Learned Senior Counsel further contended that in a set of cases in W.P.No.36337 of 2012 and batch, a similar issue fell for consideration before this Court i.e. whether disabled Drivers can be provided alternative employment by extending the benefits under Section 47 of the Act and a learned Single Judge of this Court, *vide* common order, dated 29.01.2016, held that the Drivers, who were declared as medically unfit to the post of Driver, are entitled to the benefits under Section 47 of the Act. Aggrieved by the same, the appellant-Corporation has carried the matters in appeal by filing W.A.No.666 of 2016 and batch and a Division Bench of this Court dismissed the said appeals *vide* common judgment, dated 08.09.2016. Aggrieved by the same, the appellant-Corporation has further carried the matter to the Honourable Supreme Court by filing Civil Appeal No.3529 of 2017 and batch, and the Honourable Supreme Court allowed the said appeals *vide*

judgment, dated 23.02.2017, by setting aside the orders passed by the learned Single Judge as well as the Division Bench of this Court with a specific finding that the benefits under Section 47 of the Act will be available only to those who are covered by Section 2(i) of the Act, which would mean that as the disability of the respondent is not covered under Section 2(i) of the Act, the question of extending the benefits under Section 47 of the Act to the respondent would not arise. Therefore, appropriate orders be passed in the Writ Appeal by setting aside the impugned order passed by the learned Single Judge, as the issue is squarely covered by the judgment, dated 23.02.2017, rendered by the Honourable Supreme Court in Civil Appeal No.3529 of 2017 and batch.

7. On the other hand, learned counsel appearing for the respondent had contended that the disability of the respondent clearly attracts Section 2(i) of the Act and the disability of the respondent falls under 'locomotor disability'. Therefore, the learned Single Judge was justified in allowing the subject Writ Petition in favour of the respondent. Learned counsel further contended that the appellants have not taken any stand either in the counter or in the pleadings that the disability of the respondent is not falling within the ambit of Section 2(i) of the

Act. Further, in the proceedings, dated 25.07.2013, also nowhere it is stated that the disability of the respondent is not falling within the ambit of Section 2(i) of the Act. Further, the Medical Board, which has examined the respondent, also did not hold that the disability of the respondent is not falling within the ambit of Section 2(i) of the Act. Therefore, the contention of the appellants that the disability of the respondent is not falling within the ambit of Section 2(i) of the Act, is not sustainable. Therefore, there are no merits in the Writ Appeal and the same is liable to be dismissed.

8. This Court, having considered the rival submissions made by the learned counsel on either side, is of the considered view that the subject Writ Petitions preferred by the respondents were merely allowed on the ground that the issue raised in the subject Writ Petitions is squarely covered by the earlier orders passed by this Court. The learned Single Judge has not examined the cases of the respondents as to whether the disability of the respondents falls within the ambit of Section 2(i) of the Act or not. As of now, in view of the judgment, dated 23.02.2017, rendered by the Honourable Supreme Court in Civil Appeal No.3529 of 2017, the law is settled that the benefits under Section 47 of the Act will be applicable only to those who are covered by Section 2(i) of the

Act. A perusal of the record discloses that the Medical Board has not classified whether the disability of the respondents falls within the ambit of Section 2(i) or not. It is not for this Court to classify the disability of the respondents. Therefore, ends of justice would be met, if the appellants are directed to refer the Medical Certificates of the respondents to the designated hospitals as per the Act, so as to enable the designated hospitals to classify whether the disability of the respondents falls within the ambit of Section 2(i) of the Act or not. Since the learned Single Judge has not discussed the issue as to whether the disability of the respondents falls within the ambit of Section 2(i) of the Act or not, the impugned orders are liable to be set aside.

9. Accordingly, all the Writ Appeals are allowed and the impugned orders, dated 17.12.2014, 22.03.2016 and 09.02.2016, passed in W.P.No.27329 of 2014, 37388 of 2015 and 4188 of 2014, respectively, by learned Single Judge of this Court, are set aside. The respondents are directed to submit a detailed representation to the appellants requesting to refer their Medical Certificates to the designated hospitals under the Act within a period of two (2) weeks from today. On receipt of such representations, the appellants shall refer the cases of the respondents to the designated hospitals under the Act, so as to

enable the designated hospitals to assess the disability of the respondents as to whether their disability falls within the ambit of Section 2(i) of the Act or not. If the opinion of the designated hospitals is that the disability of the respondents falls within the ambit of Section 2 (i) of the Act, then the respondents are entitled to all the benefits under Section 47 of the Act. If the appellants are having the record of the disability sustained by the respondents, then the respondents need not submit any representation and the appellants, on their own, should refer the Medical Certificates of the respondents to the designated hospitals under the Act. The above exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous Applications, if any, pending in these appeals, shall stand closed.

ABHINAND KUMAR SHAVILI, J

NAMAVARAPU RAJESHWAR RAO, J

Date: 06.02.2024.
MD