

**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: 77 OF 2024

Writ Appeal under clause 15 of the Letters Patent Preferred Against Order Dated 16/06/2023 in WP.No.19919 of 2021. on the file of the High Court.

Between:

1. Telangana State Road Transport Corporation, Rep.by its Managing Director, Bus Bhavan, RTC X Roads, Musheerabad, Hyderabad.
2. The Depot Manager, TSRTC, Hayat Nagar Depot, Rangareddy District.

.....APPELLANTS/RESPONDENTS 1 & 2

AND

Vanguru Anil Kumar, S/o. Prakash Reddy, Aged about 40 years, Occ; Driver Hayat Nagar Depot, R/o. H.No.4-9-337, Plot No.22, RTC Colony, Hayat Nagar, Rangareddy District.

.....RESPONDENT & WRIT PETITIONER

I.A.NO:3 OF 2024

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 stay of all further proceedings pursuant to the order passed by the learned single judge in WP No.19919 of 2021 dated 16/06/2023, pending disposal of the writ appeal.

Counsel for Appellants : SRI THOOM SRINIVAS (SC FOR TSRTC)

Counsel for the Respondent : SRI J.SUDHEER

The Court made the following JUDGMENT : -

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

WRIT APPEAL No.77 OF 2024

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

This Writ Appeal is filed aggrieved by the order, dated 16.06.2023, passed in W.P.No.19919 of 2021 by a learned Single Judge of this Court.

2. Heard Sri Thoom Srinivas, learned Standing Counsel for TSRTC, appearing for the appellants and Sri J. Sudheer, learned counsel for the respondent.

3. Learned Standing Counsel appearing for the appellants had contended that the respondent was appointed as a part-time Driver in the appellant-Corporation during March, 2012 and his services were regularized in the year 2014. Thereafter, as the respondent fell sick and absented to duties, his case was referred to Medical Board *vide* proceedings, dated 26.12.2019, to determine his medical fitness to the post he was holding. The Medical Board has examined the case of the respondent and declared him unfit to hold the post of Driver *vide* proceedings, dated 31.12.2019. Aggrieved by the same, the respondent has submitted a representation to the appellants on 22.01.2020 for

re-medical examination and the case of the respondent was once again referred to the Medical Board for re-examination *vide* proceedings, dated 23.01.2020. Thereafter, *vide* letter, dated 25.08.2020, the respondent was directed to report before the Superintendent and Chief Medical Officer, Tarnaka Hospital, on 31.08.2020. The case of the respondent was re-examined by the Medical Board and once again, he was declared unfit to the post of Driver. Accordingly, the appellants have issued proceedings, dated 15.09.2020, and consequential proceedings, dated 03.11.2020, declaring the respondent as medically retired and advised the petitioner to opt either for additional monetary benefits or employment to one of his dependents. The respondent has neither opted for additional monetary benefits nor sought for any employment to one of his dependents. Aggrieved by the action of the appellants in retiring the respondent on medical grounds, the respondent has approached this Court by filing the subject Writ Petition and the learned Single Judge of this Court, *vide* impugned order, dated 16.06.2023, was pleased to set aside the retirement order and directed the appellants to issue a show-cause notice to the respondent with regard to the suitability to any other alternative post and if the respondent is

found to be eligible for any other alternative employment, then the case of the respondent should be considered in terms of the provisions of the Rights of Persons with Disabilities Act, 2016 (for short, 'the Act, 2016').

4. Learned Standing Counsel appearing for the appellants had further contended that the Act, 2016 has no application to the case of the respondent. As the respondent is not suffering from any of the disabilities as set out in the Act, 2016, the question of considering the case of the respondent in terms of the Act, 2016, would not arise. The learned Single Judge erred in directing the appellants to consider the case of the respondent in terms of the Act, 2016. Therefore, appropriate orders be passed in the Writ Appeal by setting aside the impugned order, dated 16.06.2023, and allow the Writ Appeal.

5. On the other hand, learned counsel for the respondent had contended that without giving any opportunity to the respondent, the appellants have retired the respondent on medical grounds. Had the appellants issued any show-cause notice, the respondent could have given reply and exercise options for alternative employment. But, no such opportunity was given to the

respondent and the action of the appellants in retiring the respondent on medical grounds is unilateral. Therefore, the learned Single Judge was justified in setting aside the retirement order of the respondent and rightly directed the appellants to consider the case of the respondent for alternative employment, if he is otherwise found eligible for such alternative employment. Therefore, appropriate orders be passed in the Writ Appeal by directing the appellants to pass appropriate orders, after putting the respondent on notice.

6. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that the learned Single Judge was justified in setting aside the retirement order, as the said retirement order on medical grounds was passed unilaterally, without giving any opportunity to the respondent. However, the learned Single Judge was not justified in directing the appellants to consider the case of the respondent in terms of the Act, 2016, as admittedly, the Act, 2016 has no application to the case of the respondent. Therefore, such portion of the order of the learned Single Judge, where the learned Single Judge has directed the appellants to consider the case of the respondent under the provisions of the Act, 2016, is set aside.

The rest of the order, dated 16.06.2023, passed by the learned Single Judge in W.P.No.19919 of 2021, is confirmed. The appellants shall issue a show-cause notice to the respondent and thereafter, pass appropriate orders, in accordance with law.

7. With the above observations/directions, the Writ Appeal is disposed of. There shall be no order as to costs.

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

//TRUE COPY//

SD/-T. SRINIVAS
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The Managing Director, Telangana State Road Transport Corporation, Bus Bhavan, RTC X Roads, Musheerabad, Hyderabad.
2. The Depot Manager, TSRTC, Hayat Nagar Depot, Rangareddy District.
3. One CC to Sri Thoom Srinivas (SC FOR TSRTC) Advocate [OPUC]
4. One CC to Sri J.Sudheer, Advocate [OPUC]
5. Two CD Copies

SA
BS

HIGH COURT

DATED:19/02/2024

JUDGMENT

WA.No.77 of 2024



**DISPOSING OF THE W.A
WITHOUT COSTS.**

⑧ VLV
19/3/24