
(2014) 07 AP CK 0157
In the Andhra Pradesh High Court
Case No : W.A. No. 60 of 2014

Andhra Pradesh State Road Transport Corporation	APPELLANT
Vs	
N. Sudhakar	RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Citation : (2015) 1 ALT 123

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : Kallakuri Srinivasarao, S.C, Advocates for the Appellant; S.M. Subhan, Advocates for the Respondent

Judgement

L.N. Reddy, J.—This writ appeal is filed against the order, dated 01.10.2012 passed by the learned Single Judge in W.P. No. 33417 of 2011. The facts in brief are as under:

"The respondent was employed as a Driver in the APSRTC and was working in the Warangal-II Depot. On 18.06.2010. he was subjected to routine medical check up and he was found to be having defective vision. Therefore, he was declared unfit to hold the post of Driver. Through order, dated 29.12.2010, the 3rd appellant retired the respondent on medical grounds."

The respondent filed W.P. No. 19820 of 2011 before this Court alleging that he was not extended the benefit under Section 47 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1955 (for short "the Act") and that the order of voluntary retirement passed in his case is contrary to law. The writ petition was disposed of on 15.07.2011 directing that the representation made by the respondent to the 2nd appellant for extending the benefit be considered. The 2"d appellant passed order, dated 09.09.2011, rejecting the representation. Challenging the same, the respondent filed the present writ petition. He pleaded that the appellants have violated the provisions of the Act and have also accorded discriminate treatment to him. Drawing

similarity with one Mr. B. Sammaiah, a driver of Parkal Depot under the jurisdiction of the 2nd appellant himself, the respondent pleaded that while the said Sammaiah, who too was retired on medical grounds was extended the benefit of alternative employment through order dated 03.05.2011, he was denied the same. The learned Single Judge allowed the writ petition.

2. Heard learned counsel for the appellants and learned counsel for the respondent.

3. It is no doubt true that whenever an employee of the Corporation is declared as medically unfit, he has two options viz., to work in any other suitable post offered by the Corporation or to accept the monetary benefits. In the instant case, the respondent has chosen to receive the monetary benefits, on being declared as medically unfit. However, his case is that the appellants did not apprise him of the availability of the benefit under Section 45 of the Act and though he was otherwise medically fit to discharge other functions, for the rest of his service spread over 7 years, he was not extended the benefit. Initially, he approached this Court by filing W.P. No. 19820 of 2011. He cited the example of one Mr. B. Sammaiah. That employee, who too was extended the monetary benefits on being declared medically unfit, approached this Court by filing W.P. No. 28107 of 2010. The writ petition was disposed of on 03.12.2010 directing the 2nd appellant herein to pass appropriate orders on the representation. On a consideration of the same, the 2nd respondent passed order, dated 03.05.2011 directing that the employee be provided alternative employment, subject to repayment of the monetary benefit extended to him. The respondent has also expected the same from the 2nd appellant, in compliance with the directions issued in his writ petition being W.P. No. 19820 of 2011. However, the very incumbent that held the post of the 2nd appellant passed order, dated 09.09.2011, rejecting the case of the respondent. Hardly any distinguishing factor was cited between the two cases. Learned Single Judge took note of the discriminatory approach and granted relief to the respondent. We do not find any basis to interfere with the order under appeal.

4. Therefore, the writ appeal is dismissed. The miscellaneous petition filed in this appeal shall also stand disposed of. There shall be no order as to costs.