

(2002) 09 DEL CK 0166
In the Delhi High Court
Case No : LPA 650 and 656 of 2002

Delhi Transport Corporation	Vs	APPELLANT
Rajbir Singh and Sadh Ram		RESPONDENT

Date of Decision : 19-09-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 2
Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 33, 36, 38, 39, 41

Citation : (2003) 1 LLJ 865

Hon'ble Judges : S.B. Sinha, C.J.; A.K. Sikri, J

Bench : Division Bench

Advocate : Vinay Sabharwal and Vibhu Shanker, for the Appellant; Ashok Aggarwal and Rashmi Charya, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Sinha, C.J.—These appeals involving similar questions of law and fact were taken up for hearing together and are being disposed of by this common judgment.

2. The fact of the matter, however, is being noticed from LPA 656/2002.

The respondents herein were employees of the appellant herein. They were prematurely retired on the ground of medical invalidation. Questioning the said orders, writ petitions were filed by the respondents praying that they be reinstated in service with full wages.

3. The respondent-Rajbir Singh met with an accident on 12.8.1996 as a consequence whereof his left femur bone was fractured. He remained under treatment till 16.2.1997. He was advised rest by his doctors for three months initially on 24.1.1997 and thereafter again so advised on 27.7.1997 and 15.1.1998. The respondent allegedly filed a fitness certificate issued by Dua Nursing Home Sonapat (Haryana) on 26.5.1998. However, he was directed to

appear before a medical board, which declared him medically unfit on 2.7.1998 and pursuant to and in furtherance thereof, the appellant passed an order on 10.7.1998 retiring him prematurely on medical grounds. There against he preferred an appeal which was dismissed on 10.8.98.

4. Before a learned Single Judge, a question was raised that in a situation of this nature the appellant herein could not have terminated the services of the respondent in view of the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as the said Act).

Before the learned Single Judge, *inter alia*, a question was raised that as the accident had taken place prior to coming into force of the said Act, the same would not be applicable in the instant case.

5. The learned Single Judge in his judgment under appeal, *inter alias* held:

(i) there is nothing on record to show that the respondent had not met with the accident;

(ii) Having regard to the decision of this Court in *Baljeet Singh Vs. Delhi Transport Corporation*, , it is not necessary that the accident must occur during the course of employment and thus the order of termination must be held to be bad in law.

5. Mr. Sabharwal, and Mr Vibhu Shanker, learned counsel appearing on behalf of the appellants, would, *inter alia*, submit that by reason of the provisions of the said Act, the right of the appellant under a statute or statutory regulations could not be taken away nor thereby condition of its employees can be interfered with. It was urged that statutory service regulations framed by the appellant herein in terms of the provisions of the Delhi Transport Corporation Act are mandatory in nature and having regard to the fact that the orders impugned in this writ petition were passed in terms thereof, the same could not have been interfered with on the premise that the said Act governs the field. The regulations having validly been made, it was urged the same must be deemed to be part of the Act. It was contended that in any event, when action in terms of such regulations were taken by the appellant, it cannot be said to have acted arbitrarily in taking recourse thereto.

6. Section 47 of the said Act, Mr Sabharwal, would contend must not be read literally, inasmuch as, so read, it would lead to absurdity and the employer will be burdened with unnecessary liabilities although the accident had not taken place during the course of employment.

7. Counsel would contend that the Apex Court in a situation of this nature had directed framing of a scheme in *U.P. State Road Transport Corporation and another Vs. Mohd. Ismail and others*, . Even in *Baljit Singh (supra)*, Mr Sabharwal would urge it was held that accident occurred during the course of employment.

6. Mr Sabharwal would argue that the entire Act should be read as a whole and from the scheme thereof it would appear that it seeks to protect such persons who suffer injury during the course of employment.

Mr Vibhu Shanker would further submit that the Act having come into force on 7.2.1996 and the disability of the concerned employee having taken place in 1995, Section 47 must be held to have no application in the instant case. In support of the said contention reliance has been placed on Anand Bihari and others Vs. Rajasthan State Road Transport Corporation, Jaipur and another,

7. Mr Ashok Aggarwal, learned counsel appearing for the respondent on the other hand, would submit that the said Act contains special provisions and furthermore the provisions thereof being beneficent in the matter, the same would prevail over the regulations framed by the appellants. It is submitted that Section 47 of the Act is couched in negative terms and thus must be held to be imperative in nature. Such a provision, counsel would contend, must be liberally construed. In support of the said contention reliance has been placed on Pawan Kumar Sharma Vs. Gurdial Singh,

8. Before adverting to the rival submissions of the learned counsel for the parties, as noticed hereinbefore, we may notice that on 29.8.2002 this bench in CWP 2461/2002 Govt. of NCT v. Bharat Lal Meena had occasion to notice the provisions of the said Act and observed as under:

2. With a view to realize the objective, namely, people with disabilities have same right, hopes and aspirations as everyone else and they are to be provided with equal opportunities and rather better incentives for their rehabilitation in the society, a meeting was held in Beijing on 1st and 5th December, 1992, called the "Meet to Launch the Asian and Pacific Decades of Disabled Persons". A proclamation was adopted by the Asian and Pacific countries to ensure "full participation and equality of people with disabilities in the Asian and Pacific Regions".

3. India was a signatory to the said proclamation and with a view to implement the same, the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 was enacted, which came into force on 1st January, 1996.

Various kinds of rights are recognized in this legislation, which are on the statute book for last about 7 years now. The year 2002 is also the last year of the decade of disabled persons.

Concrete empowerment is envisaged in the Constitution guaranteeing equality of status and opportunity to its citizen and other progressive directives (Article 39A, Article 41). The 1st International forum for Universal Declaration of Human Rights proclaimed by the United Nations General Assembly is a landmark, for Article 25 of the Declaration states that each person has, "the right to security in the event of unemployment, sickness, disability, widowhood, old age, and other

lack of livelihood in the circumstances beyond his control. In the year 1971, the General Assembly stipulated that mentally retarded persons be accorded the same rights as other human beings, as well as special rights corresponding to their needs in the medical, educational and social fields; and in 1975 the General Assembly adopted the "Declaration on the Rights of Disabled Persons" which proclaimed equal civil and political rights of disabled persons, and the subsequent adoption of the standard Rules in the equalization of opportunities for Persons with Disabilities in 1993 served as an instrument for policy making and a basis for technical and economic cooperation. The evaluation of these international standards relating specifically to disability reflects on a move to place the rights of persons with disabilities within the category of universal human rights. In spite of a significant broadening of perception and significant legislation, very few steps have been taken to translate these legislative provisions into reality. Discrimination is still the common experience shared by all disabled people and the biggest problems of discrimination are more and more entrenched and more conspicuous as employment bias. According to a research study done by NCPEDP where a questionnaire was sent to the "Super 100" companies of India of whom 70 responded. The key findings are as follows:-

- (1) Percentage of disabled employees in the respondent companies: 0.4%
- (2) Percentage of employees with disabilities in the Public Sector: 0.54%
- (3) Percentage of employees with disabilities in the Private Sector: 0.28%
- (4) Percentage of employees with disabilities in the Multinationals: 0.05%
- (5) Out of the 70 respondent companies, 20 companies did not employ any disabled person at all.
- (6) Out of 70 respondent companies, only 10 were found to have 1% or above disabled employees
- (7) There was no company amongst the "Super 100" where even 2% of the workforce was comprised of disabled person."

4. The said Act seeks to deal with the problems, which had been faced by the disabled for a longtime. However, we may take notice of a few provisions in the Act.

5. The said Act intends to provide for the following, as is apparent from the statement of objectives and reasons:-

"(i) to spell out the responsibility of the state towards the prevention of disabilities, protection of rights, provision of medical care education, training, employment and rehabilitation of persons with disabilities;

(ii) to create barrier free environment for persons with disabilities;

(iii) to remove any discrimination against persons with disabilities in the sharing of development benefits, vis a vis non disabled persons;

(iv) to counter act any situation of the abuse and the exploitation of persons disabilities;

(v) to lay down strategies for comprehensive development of programmes and services and equalization of opportunities for persons with disabilities; and

(vi) to make special provision for the integration of persons with disabilities into the social mainstream."

It defines blindness, cerebral palsy, and disability in general. It also provides definition for hearing impairment, locomotor disability, mental illness, mental retardation.

The whole Act is designed for rehabilitation of persons with disabilities. Rehabilitation refers to the process aimed at enabling persons with disabilities to reach and maintain optimal physical, sensory, intellectual, psychiatric or social functional levels.

Chapter-II provides for the formation of Central Coordination Committee and Central Executive Committee to perform the functions under the said Act.

Chapter III provides for the formation of the State Coordination Committee and State Executive Committee to carry out the mandate of the said Act.

Chapter VI provides for identification of posts which can be reserved for persons with disability and Section 33 provides for reservation of posts of not being less than 3% for the class of persons with disability and the action mentioned therein. Section 36 provides that the vacancies not filled up are to be carried forward. Section 38 provides for schemes for ensuring employment of persons with disability and inter alia provides for-

(a) the training and welfare of persons with disabilities

(b) the relaxation of upper age limit

(c) regulating the employment

(d) health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed.

(e) The manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and

(f) Constituting the authority responsible for the administration of the scheme.

Section 39 mandated that Education Institutions receiving aids from the government have to carry out reservation of seats for persons with disability.

The Act elaborates the provisions for social security, calls for affirmative action, making schemes for preferential allotment and non-discrimination in transport and on roads, in built environment and in government employment.

As per Section 36, where in any recruitment year any vacancy u/s 33 cannot be filled up due to non-availability of suitable persons with disability or, for any other sufficient reason, such vacancy is to be carried forward in the succeeding recruitment year. If in the succeeding recruitment year also suitable person with disability is not available, it may first be filled by inter-changed among the three categories and only when there is no person with disability is available for the post in that year, the employer shall fill up the vacancy by appointment of a person other than a person with disability. Section 38 imposes an obligation on the Government or local authorities to formulate schemes, by notification, for ensuring employment of persons with disabilities. All Government educational institutions and other educational institutions receiving aid from the Government are also obligated to provide reservation of not less than 3 per cent for such persons with disabilities (Section-39). Similar reservation is to be provided in all poverty alleviation schemes for the benefits of persons with disabilities (Section-40). Those public and private sectors who ensure at least 5% of their work force Constituting of persons with disabilities are to be provided incentives by the Government (Section-41). In so far as rights of the first kind are concerned, as it has already been stated, Section 33 of the Act provides for 3 per cent reservation of vacancies for persons with disability. However, experience has shown that the Government hardly gave effect to this provision of reservation. It is because, notwithstanding such provision, there is a general conception among non-disabled that persons with disability are not capable of doing any job. Such kind of perception brings out discriminatory treatment qua persons with disability when selection is to be made. More often, it would be seen, the employer would conclude that even if the reservation was made the employer could not find suitable persons under this category for a particular job. It would thus become easy for the employer not to select anybody even if the advertisement provided for such a reservation. This mindset of the employer is creating difficulties in the implementation of the provision.

Here again, notwithstanding the aforesaid provision, the experience has shown that proper respect has not been given to this provision.

Besides, the Person with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, The Rehabilitation Council of India (RCI) Act 1992 and The National Trust (for Welfare of Persons wit Autism, Cerebral Palsy, Mental Retardation and Multiple Disability) Act (NTA), 1999 have focused on the issued and Welfare of persons with disability.

Section 47 of the said Act occurs in Chapter VIII thereof which deals with non-discrimination. Section 44 deals with non-discrimination in transport whereas Section 45 deals with non-discrimination on the road. Section 46 deals with non-discrimination in the built environment. Section 47 deals with non-discrimination in Government employment. The said provision reads thus:

"47. Non-discrimination in Government employment.--(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during

his service.

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

vided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier."

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this Section."

History of legislation as noticed hereinbefore clearly shows the said Act was enacted in conformity with the Proclamation on the Full participation and Equality of the People with Disabilities in the Asian and Pacific Region. It is not in dispute that the Act is beneficent in nature. It is also not in dispute that by reason of the said Act provisions have been made so that the persons with disability feel themselves as a part of the society which eventually may lead to his full participation at the work place. Nobody suffers from disability by choice. Disability comes as a result of an accident or disease.

The said act was enacted by the Parliament to give some sort of succour to the disabled persons. By reason of Section 47 of the said Act which is beneficent in nature, the employer had been saddled with certain liabilities towards the disabled persons. Section 47 of the Act we may notice does not contemplate that despite disability, a person must be kept in the same post where he had been working. Once he is not found suitable for the post he was holding, he can be shifted to some other post but his pay and other service benefits need to be protected. The second proviso, appended to Section 47 of the Act in no uncertain terms, states that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available. The said Act provides for social security for the disabled persons and if for the said purpose a statutory liability has been thrust upon the employer the same cannot be held to be arbitrary.

Yet again this Bench in *Social Jurist v. Union of India*, CWP 1283/2002 decided on 13.8.2002 observed:

"It is common experience of several persons with disabilities that they are unable to lead a full life due to societal barriers and discrimination faced by them in employment, access to public spaces, transportation etc. persons with disability are most neglected not only in the society but also in the family. More often they are an object of pity. There are hardly any meaningful attempts to

assimilate them in the mainstream of the nation's life. The apathy towards their problems is so pervasive that even the number of disabled persons existing in the country is not well documented.

2. T.R. Dye, Policy Analyst, in his book "Understanding Public policy" says:

"Conditions in society which are not defined as a problem and for which alternatives are never proposed, never become policy issues. Government does nothing and conditions remain the same."

3. this statement amply applies in the case of the disabled. At least this was the position till few years ago. The condition of the disabled in the society was not defined as a problem, and Therefore, it did not become public issue. It is not that this problem was not addressed. Various NGOs, Authors, Human Rights Groups have been focusing on this problem from time to time and for quite sometime. But it was not defined as a problem which could become public issue. Until the realization dawned on the Govt and the policy makers that the right of the disabled was also a human right issue.

It was further observed:

"Unless the mindset of the public changes; unless the attitude of the persons and officials who are given the duty of implementation of this Act changes, whatever rights are granted to the disabled under the Act, would remain on paper."

Can a provision be read down the Act to read it differently than its plain and grammatical meaning as was argued by Mr Sabharwal? Answer to the said question must be rendered in the negative.

The true way to read and apply a legislation is to take the words as legislature have given them and to take the meaning the word gives naturally, unless the construction in those words as offered by preamble or context appear contrary thereto. The golden rule is that all the statute should be interpreted literally. Exercise for construction of a statute should be taken recourse to only when the literal construction thereof would give rise to an absurdity.

Grant of some relief to the disabled person had been in the mind of all concerned for a long time.

As indicated hereinbefore 1995 Act came into force only after India became signatory to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region. The said Act, Therefore, must be read in the context of the said Proclamation.

It is now well settled that construction of such a statute must be made in the light of the International Covenants. See Jolly George Verghese v. Bank of Cochin 1980 SC 470; Vishaka and others Vs. State of Rajasthan and Others, Apparel Export Promotion Council Vs. A.K. Chopra,

In G.P. Singh's Principles of Statutory Interpretation (Eighth Edn-2001) at pages

the law is stated in the following terms:

"In construing wills and indeed statutes and all written instruments, the grammatical and ordinary sense of the word is adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity, and inconsistency, but no further. And is stated Lord Atkinson: "in the construction of statutes, there words must be interpreted in their ordinary grammatical sense unless there be something in the context, or in the object of the statute in which they occur or in the circumstances in which they are used, to show that they were used in a special sense different from their ordinary grammatical sense". Viscount Simon, L.C., said: "The golden rule is that the words of a statute must prima facie be given their ordinary meaning". Natural and ordinary meaning of words should not be departed from "unless it can be shown that the legal context in which the words are used requires a different meaning". Such a meaning cannot be departed from by the judges "in the light of their own views as to policy" although they can "adopt a purposive interpretation if they can find in the statute read as a whole or in material to which they are permitted by law to refer as aids to interpretation an expression of Parliament's purpose or policy".

Reading down a provision of law is permissible when a statute ex facie is found to be unconstitutional. (See Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress and Others, Constitutionality of Section 47 of the said Act is not in question. We, Therefore, are of the considered view that the said provision cannot be read down as submitted by Mr. Sabharwal.

In U.P. State v. Mohd Ismail AIR 1991 SCC 1099 the Apex Court was considering the provisions of Section 45 of Road Transport Corporation Act and U.P. Roadways Transport Employees Service Regulation 1971. A question arose as to whether in a case where the driver attained disability, particularly when he is found to be medically unfit; will he be granted alternative appointment. It was held having regard to the provisions of the said regulation are keeping in view public interest; Section 73 conferred no right upon the employee to get an alternate job in the Corporation. Having regard to the provisions of the said statute only, it was observed:

"11. The High Court was equally in error in directing the Corporation to offer alternative job to drivers who are found to be medially unfit before dispensing with their services. The Court cannot dictate the decision of the statutory authority that ought to be made in the exercise of discretion in a given case. The Court cannot direct the statutory authority to exercise the discretion in a particular manner not expressly required by law. The Court could only command the statutory authority by a writ of mandamus to perform its duty by exercising the discretion according to law. Whether at alternative job is to be offered or not is a matter left to the discretion of the competent authority of the Corporation and the Corporation has to exercise the discretion in individual cases. The Court

cannot command the Corporation to exercise discretion in a particular manner and in favor of a particular person. That would be beyond the jurisdiction of the Court."

The said decision would run counter to the submissions of Mr Sabharwal inasmuch as in terms of Section 47 of 1995 Act now a legal right has been conferred upon the disabled employee to pray for and obtain a writ of mandamus. Section 47 of the said act confers a legal right in the employees at a corresponding legal duties on the employees.

In Baljit Singh's case (supra) CW 5073/93 decided on 13.9.94, Mahinder Narain, J merely followed U.P. Road Transport's case.

However, in Baljeet Singh Vs. Delhi Transport Corporation, observed:

"13. Section 47 in clear terms mandates that no establishment shall dispense with or reduce in rank the employee who acquires the disability during his service. Even if he is not suitable for the post he was holding as a result of disability he is to be shifted to some other post with same pay scale and service benefits. Even when he cannot be adjusted against any other post he is to be kept on supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. The intention of Section 47 is clear and unambiguous namely, not to dispense with the service of the person who acquires disability during his service. The purpose is not far to seek. When the objective of the enactments to provide proper and adequate opportunities to the disabled in the field of education, employment etc it is obvious that those who are already in employment should not be uprooted when they incur disability during the course of employment. Therefore, their employment is protected even if the destiny inflicts cruel blow to them accepting their limbs. Even if he is not able to discharge the same duties and there is no other work suitable for him, he is to be retained on the same pay scale and service benefits so that he keeps on earning his livelihood and is not rendered jobless. Notwithstanding the aforesaid clear and mandatory provisions contained in Section 47 of the Act, the respondent corporation has passed the orders of voluntary retirement in the aforementioned cases which is an establishment within the meaning of Section 2(k) of the Industrial Disputes act as it was established under Central Act. Such obvious Legislature intent is not understood by the officials of the DTC who are at the helm of the affairs and have handed out such shabby treatment to the petitioners. Even when their attention was drawn to the provision they chose to lend deaf ears and did and did not rectify their wrong acts."

The contention of Mr Sabharwal to the effect that therein also this Court said "when they acquire disability during the course of employment" and thus, the same meaning should be attributed to Section 47 of the Act cannot be accepted. The said contention, in our opinion is misplaced.

A judgment, as is well known, must not be read as statute. It must be understood in the context of the facts involved therein and points required to be

decided.

What was emphasised in the said paragraph was that those were already in employment should not be uprooted when they incurred disability. It would not mean that such disability must occur during the course of employment which expression finds place in certain statutes, as for example, Workmen Compensation Act.

The purport and object of statute like Workmen Compensation Act are totally different and distinct from the said act. They seek to achieve different purposes. Whereas workman compensation Act provides for grant of compensation, in terms of the provisions of the said Act, service of disabled is sought to be secured.

We may notice that an appeal (LPA 120/2000) was preferred against the decision in Baljit Singh. A Division Bench of this Court quoted therein from a decision of the Apex Court in Civil Appeal No. 1864/2000 Kanwar Pal Singh v. DTC:

"Special Leave granted.

Learned counsel for the appellant has brought to our attention Section 47 of the persons with disabilities (Equal Opportunities) Act, 1995.

Having heard the learned counsel for the parties we are of the opinion that it is the duty of respondent No. 1 to employ the appellant in a class IV post. If no such post exists then by virtue of Section 47 of the said Act a supernumerary post shall be created within eight weeks from today and employment given to the appellant with such relief as the appellant may be entitled to.

The appeal stands disposed of accordingly."

Yet again a learned Single Judge of this Court in Shiv Nath Singh v. DTC, CW 333/96 decided on 29.9.2000 followed an earlier judgment of a Division Bench in Sukhbir Singh v. DTC and held that such premature retirement in terms of the DTC regulations cannot be sustained.

Baljit Singh (supra) was followed by one of us in Jaipal Singh v. DTC decided on 10.2.200. Even in case where in terms of regulation the appellant is permitted to compulsorily retire its employees, it was required to pay 50% of the wages but now in place thereof by reason of the said Act entire basic pay is protected subject to the condition that the disabled person shall perform a job which is suitable to him. Such a provision has been made having regard to the fact that a person should not be discriminated against only because he had suffered disability while in service. Furthermore, the said Act contains a non-obstante clause. It has, thus, an overriding effect over the other statutes.

So far as submission of Mr Vibhu Shanker to the effect that the said Act could not be given retrospective effect is concerned, the same is stated to be rejected. The Services of the respondent had not been terminated prior to coming into force of the said Act and thus, the question of the said Act becoming enforceable

retrospectively does not and cannot arise.

Whether a substantive right can be taken away by giving retrospective effect to a statute is not in question in these matters. Accident might have occurred in 1995, and the Act might have come into force on 7.2.1996 but the submission of Mr Vibhu Shanker that the date of acquisition of disability must be considered to be the cut off date for the purpose of Section 47 of the Act cannot be accepted. After coming into force of the said Act only the order impugned was passed. If prior to coming into force of the said Act, services had been terminated the matter would have been different but as the services were not terminated till the Act came into force the same must be held to be bad in law.

Once the Act came into force having regard to the phraseology used in Section 47 the appellant herein became debarred from terminating the services of the respondent.

The question as to whether in a situation of this nature, the act may be held to have retrospective effect or not has succinctly been stated in G.P. Singh's Interpretation Statute (English Edn-2001) at page 403 as under:

"The rule against retrospective construction is not applicable to a statute merely "because a part of the requisites for its action is drawn from a time antecedent to its passing" If that were not so, every statute will be presumed to apply only to persons born and things come into existence after its operation and the rule may well result in virtual nullification of most of the statutes. An amending Act is, Therefore, not retrospective merely because it applies also to those to whom pre-amended Act was applicable if the amended At has operation from the date of its amendment and not from an anterior date. But this does not mean that a statute which takes away or impairs any vested right acquired under existing laws or which creates a new obligation or imposes a new burden in respect of past transaction will not be treated as retrospective. Thus to apply an amending Act, which creates a new obligation to pay additional compensation, or which reduces the rate of compensation to pending proceedings for determination of compensation for acquisitions already made, will be to construe it retrospective which cannot be done unless such a construction follows from express words or necessary implication."

We need not go into the question as to whether there exists a distinction between the existing rights and vested rights. The scope of the Act must be dealt with having regard to the object it seeks to achieve. As the virus of the Act has not been questioned, we are of the opinion that the said question cannot be permitted to be raised at this stage.

In Nelson Motis Vs. Union of India and another, whereupon Mr Vibhu Shanker relied upon the law is stated in the following terms:

"8. ...The language of the sub-rule here is precise and unambiguous and, Therefore, has to be understood in the natural and ordinary sense. As was

observed in innumerable cases in India and in England the expression used in the statute alone declares the intent of the legislature. In the words used by this Court in *State of Uttar Pradesh Vs. Dr. Vijay Anand Maharaj*, when the language is plain and unambiguous it admits of only one meaning, no question of construction of a statute arises for the act speaks for itself. Reference was also made in the reported judgment to Maxwell stating:-

"The construction must not, of course, be strained to include cases plainly omitted from the natural meaning of the words."

The comparison of the language with that of Sub-rule (3) reinforces the conclusion that Sub-rule (4) has to be understood in the natural sense..."

There cannot be any doubt that the said Act provides for special provisions. Doctrine of *generalalia specialibus non derogant*, thus, would apply in the instant case. Service conditions laid down under the regulations made under the Delhi Transport Corporation Act will be subject to the provisions of the said Act having regard to the aforesaid maxim. Section 47 is couched in negative language and the same, necessarily, must be construed as mandatory in nature. So construed the appellant was bound to give effect to these irrespective of any consequences.

In *Ashoka Marketing Ltd. and another Vs. Punjab National Bank and others*, , the Apex Court was dealing with the contention as to whether the Rent Control Act will override the Public Premises Act. Relying on the maxim *generalalia specialibus non derogant* and *leges posteriores priores contraries abrogant* it was held:

"49. This means that both the statutes, viz. the Public Premises Act and the Rent Control Act, have been enacted by the same legislature Parliament, in exercise of the legislative powers in respect of the matters enumerated in the concurrent List. We are, Therefore, unable to accept the contention of the learned Additional Solicitor General that the Public premises Act, having been enacted by Parliament in exercise of legislative powers in respect of matters enumerated in the Union List would ipso facto override the provisions of the Rent Control Act enacted in exercise of the legislative powers in respect of matters enumerated in the Concurrent List. In our opinion, the question as to whether the provisions of the Public Premises Act override the provisions of the Rent Control Act will have to be considered in the light of the principles of statutory interpretation applicable to laws made by the same legislature.

50. One such principle of statutory interpretation which is applied is continued in the Latin maxim: *leges posteriores priores contraries abrogant* (a general provision does not derogate from a special one), this means that where the literal meaning of the general enactment covers a situation for which specific provision is made by another enactment contained in the earlier Act, it is presumed that the situation was intended to continue to be dealt with by the specific provision rather than the later general one."

In *Rameshwar Dass and Others Vs. State of Haryana and Others*, , the Apex

Court held:

"3. The question whether a State Road Transport Corporation can retire the bus drivers on the ground of their defective or subnormal eyesight developed during the course of the employment has been examined by this Court in the case of Anand Bihari and others Vs. Rajasthan State Road Transport Corporation, Jaipur and another, . This Court held that such terminations of service were unjustified, inequitable and discriminatory, though not amounting to retrenchment within the meaning of Section 2(oo) of the Industrial Disputes Act. It was impressed by this Court that service conditions of the bus drivers must provide adequate safeguards because such bus drives have developed defective eyesight or subnormal eyesight because of the occupational hazards. A scheme was directed to be framed for providing alternative jobs along with retirement benefits and for payment of additional compensation proportionate to the length of service rendered by them, in case of non-availability of alternative jobs, it was brought to our notice that in view of the judgment in Anand Bihari v. Rajasthan State Road Transport Corporation the Transport Commissioner, State of Haryana has issued a communication dated 20-8-1992."

For the reasons aforementioned no case is made out for interference with the impugned judgments. These Letters Patent Appeals are Therefore dismissed. No costs.