IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE SEVENTEENTH DAY OF SEPTEMBER TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH AND

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 1393 OF 2024

Writ Appeal under clause 15 of the Letters Patent Filed Against the order Dated 15/10/2024 in Writ Petition No.22109 of 2021. on the file of the High Court.

Between:

1. Sri Khusro Shah Khan, Regional Manager, TS R T C, Hyderabad Region, Hyderabad District T S
2. TSRTC Corporation, Midhani Depot Hyderabad, Rep. by V C and M D,

(R2 is impleaded as per Court Order, dated 23/03/2023 in I.A.No.1/2023)

.....APPELLANTS/RESPONDENTS 1 & 2

AND

Y Yadaiah, S/o Babu Rao, Aged 50 yrs, Occ : Driver, R/o H.No.171-181/A/40, Chandraiah Huts Madannapet Saidabad Hyderabad T S

....RESPONDENT & WRIT PETITIONER

I.A.NO:1 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 in pursuance of the order passed by the Learned Single judge in WP No.22109 of 2021 dated 15/10/2024, pending disposal of the writ appeal.

I.A.NO:1 OF 2025

Between:

Y Yadaiah, S/o Babu Rao, Aged 50 yrs, Occ : Driver, R/o H.No.171-181/A/40, Chandraiah Huts Madannapet Saidabad Hyderabad T S

....RESPONDENT/PETITIONER

AND

1. Sri Khusro Shah Khan, Regional Manager, TS R T C, Hyderabad Region, Hyderabad District T S
2. TSRTC Corporation, Midhani Depot Hyderabad, Rep. by V C and M D,

(R2 is impleaded as per Court Order, dated 23/03/2023 in I.A.No.1/2023)

.....PETITIONER/ APPELLANTS/RESPONDENTS

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 vacate interim direction passed in W.A.No. 1393 of 2024 dated 13.12.2024 and dismiss the writ appeal.

Counsel for Appellants : SRI R.ANURAG (SC FOR TSRTC)

Counsel for Respondents : SRI SRINIVASA RAO MADIRAJU

The Court made the following JUDGMENT : -

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.1393 of 2024

JUDGMENT:

Mr. R.Anurag, learned Standing Counsel for Telangana State Road Transport Corporation (hereinafter referred to as 'the Corporation') appears for the appellants.

Mr. Srinivasa Rao Madiraju, learned counsel for the respondent.

2. Petitioner was in regular service as a driver under the appellant Corporation. During periodical medical examination conducted by Medical Board at Tarnaka Hospital on 21.03.2017, he was declared unfit for the post of driver in A1 category and also unfit for all other categories as per the medical standards of TSRTC due to **"Seizure Disorder"**. The employer issued office order dated 10.04.2017 retiring him on medical grounds and at the same time holding him eligible for additional monetary benefit or employment to dependent as per Regulation 6A(4) of the

TSRTC Employees (Service) Regulations, 1964 and the circular such as Circular No.PD-19/2015 dated 03.06.2015 at Page 36, which provides for alternative employment to the dependent of such an employee who has been declared unfit for all category of posts in the Corporation or for receiving additional monetary benefit in terms of Regulation 6A(5)(a) or (b) of TSRTC Employees (Service) Regulations, 1964 as are applicable to the petitioner. Petitioner approached the writ Court being aggrieved by his retirement on medical grounds. The learned writ Court was of the opinion that medical condition of the petitioner can be classified under the 'locomotor' disorder. Therefore, the impugned order of retirement was set aside. The respondents were directed to consider providing alternative light duty jobs to the petitioner in the respondent organization forthwith and the petitioner shall be entitled to all consequential benefits notionally from the date of his discharge from duties till the date of his reinstatement. Appellant Corporation has preferred this appeal being aggrieved.

3. We have heard learned counsel for the parties and also taken note of the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as 'the Act of 1995') which applies to the case of the present petitioner as the order of his retirement was made on 10.04.2017 before coming into force of the Rights of Persons with Disabilities Act, 2016 with effect from 19.04.2017.

4. The Act of 1995 defines "disability" under Section 2(i). Section 47 thereof provides restraint upon the establishment to dispense with or reduce in rank, an employee who acquires a disability during his service. The first proviso thereof provides that the employee, after acquiring disability is not suitable for the post he was holding, he could be shifted to some other post with the same pay scale and service benefits. The second proviso further provides 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. Sub-Section (2) provides that no promotion shall

be denied to a person merely on the ground of his disability. In the present case, the TSRTC Employees (Service) Regulations, 1964 do provide for retirement of an employee who is unfit to discharge the duties of the post held by him. Petitioner's disease i.e., "Seizure Disorder" does not fall under any of the defined "disability" under Section 2(i) of the Act of 1995. The learned writ Court treated it as a 'Locomotor' disability, which apparently is not applicable to the "Seizure Disorder". 'Locomotor' disability can be said to one which affects the locomotor functions or movement of such a person. Since the petitioner was declared unfit for all categories, the circular prevalent in the Corporation provides for alternative employment or financial benefits in lieu thereof. It is the case of the petitioner that the medical certificate issued by the Nizam's Institute of Medical Sciences (NIMS) on 06.10.2023 opines that he is fit to join any kind of duty in TSRTC. According to the petitioner, the "Seizure Disorder" is not one which disables the petitioner from holding any other kind of suitable post in the Corporation.

5. Learned counsel for the petitioner has relied upon the judgment dated 08.09.2016 rendered by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in W.A.No.1120 of 2015 and batch. The said decision has been set aside by the Hon'ble Supreme Court *vide* order dated 23.02.2017 in Civil Appeal No.3428 of 2017. In the said judgment, the Apex Court has also held that the benefit of Section 47 of the Act of 1995 will be available to only those who satisfy the definition of the expression "Disability" under Section 2(i) of the Act of 1995. This has been taken note of in another Writ Appeal No.1635 of 2017 decided by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh *vide* judgment dated 06.11.2017 while dealing with the case of "Colour Blind Drivers". The facts of the above case are not identical to the present case as the petitioner has been found to suffer from "Seizure Disorder" and not only declared unfit for the job of Driver in A1 category but for all other posts.

6. In view of the decision of the Apex Court in Civil Appeal No.3428 of 2017, since the petitioner cannot be categorized with suffering from any of the defined "disability" under Section 2(i) of the Act of 1995, the benefit of Section 47 of the Act of 1995 cannot be extended in his favour. Though petitioner has produced the medical certificate of the year 2023 from a Medical Institute, but not only is such certificate six years after the examination of the petitioner by the Medical Board, Tarnaka Hospital but at the same time, this Court without any valid reasons cannot sit over and doubt the opinion of a Medical Board to hold that petitioner is fit for other posts despite suffering from a "Seizure Disorder". To cater to such situations, the employer has framed circular which provides for alternative employment to the dependent of such an employee or financial benefits as per the TSRTC Employees (Service) Regulations, 1964, which has been offered to by the petitioner by the impugned order dated 10.04.2017.

7. Therefore, we are unable to agree with the opinion of the learned writ Court that petitioner's case would fall under

'Locomotor' disability and can be considered for alternative employment in terms of Section 47 of the Act of 1995. The applicable circular of the appellant Corporation provides adequate safeguard to cases of such employees who suffer those kind of diseases which render them unfit for not only performing the duties of a driver but any other post in the Corporation though such a disease may not be a defined 'disability' under Section 2(i) of the Act of 1995. We are, thus, of the opinion that the order of the learned writ Court cannot be sustained. It is, accordingly, set aside.

8. The Writ Appeal is, accordingly, allowed. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-K. SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. One CC to SRI R.ANURAG (SC FOR TSRTC) Advocate [OPUC]
2. One CC to SRI SRINIVASA RAO MADIRAJU, Advocate [OPUC]
3. Two CD Copies

SA
BS

HIGH COURT

DATED:17/09/2025



JUDGMENT

WA.No.1393 of 2024

ALLOWING THE W.A

WITHOUT COSTS.

22/9/25