
(2002) 11 DEL CK 0146

Delhi High Court

Case No: LPA 887 of 2002 and CMs 1890-91 of 2002

DTC

APPELLANT

Vs

Balram Sharma

RESPONDENT

Date of Decision: Nov. 20, 2002

Acts Referred:

- Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 - Section 2, 47

Citation: (2002) 101 DLT 499 : (2003) 66 DRJ 707

Hon'ble Judges: R.S. Sodhi, J; A.D. Singh, J

Bench: Division Bench

Advocate: Vinay Sabharwal, for the Appellant;

Final Decision: Dismissed

Judgement

Anil Dev Singh, J.

This Letters Patent Appeal is directed against the Order of the learned Single Judge dated 04.03.2002 in C.W.P. No. 6077/2000.

2. The facts giving rise to the appeal are as follows:-

3 On 03.02.1985, the respondent who was working as a Conductor, suffered injury during the course of employment. As a result of the injury, he lost one eye. On 24.03.200, the respondent prematurely retired the appellant from services on the ground of impairment of his eye. The respondent herein not satisfied with the Order passed by the appellant herein filed a writ petition being C.W.P. No. 6077/2000.

4. On hearing learned counsel for the parties, the writ petition was accepted by the learned Single Judge on the ground that according to provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the appellant herein was barred from terminating the services of the respondent as he had sustained disability during the course of employment.

5. Aggrieved by the Order passed by the learned Single Judge, the appellant DTC has filed the instant appeal.

6. The learned counsel appearing for the appellant submitted that the injury sustained by the respondent does not fall within the definition of disability as provided by Section 2(i) of the Act. In order to appreciate the said submission, we may notice Section 2(i) of the Act, which reads as follows:-

"2(i) "disability" means:-

(i) blindness;

(ii) low vision;

(iii) leprosy-cured;

(iv) hearing impairment;

(v) locomotor disability;

(vi) mental retardation;

(vii) mental fitness;

7. Learned counsel also invited our attention to Section 2(u) of the Act, which is in the following terms:-

"2(u) "persons with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assertive device."

8. A joint reading of Sections 2(i) and 2(u) of the Act leaves no manner of doubt that disability suffered by the respondent herein falls within the purview of Section 2(i) of the Act.

9. The respondent as a result of the injury to one of the eyes acquired low vision. Low vision is covered by the definition of disability as given in Section 2(i) of the Act. According to Section 2(u) of the Act, a person with low vision means a person with impairment of visual functioning even after treatment or standard refractive correction. It is not the case of the appellant that even after use of glasses, the low vision of the respondent herein could not be corrected. It goes without saying that a Conductor with one eye will not be in a position to execute the task assigned to him even with appropriate assertive devices. This being the position, the case of the respondent who suffered disability during his services, was totally covered by the provisions of Section 47 of the Act and his services could not be terminated prematurely.

10. In the circumstances, Therefore, we do not find any merit in the appeal. Accordingly, the same is dismissed.