

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO. 441 OF 2022 (S-KSRTC)

BETWEEN:

SRI. M.M. RAMEGOWDA

AGED ABOUT 56 YEARS

S/O MUTHURAJEGOWDA

DRIVER

TOKEN No.8438

BMTC, 34TH DEPOT

KOTHANNUR DINNE

BANNERUGHATTA ROAD

BENGALURU-560 078

...APPELLANT

(BY SRI. MUKKANNAPPA S.B., ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER

Digitally
signed by
RAKSHA
Location:
High Court
of Karnataka

B.M.T.C.,
SOUTH DIVISION
K.H. ROAD
BENGALURU-560 027

...RESPONDENT

(BY SMT. H.R.RENUKA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER DATED 07.07.2021 PASSED BY THE LEARNED SINGLE JUDGE IN W.P.No.54495/2016 AND CONSEQUENTLY ALLOW THE WRIT PETITION.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 18.03.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

This writ appeal is preferred against the Order dated 07.07.2021, passed by the learned Single Judge in W.P.No.54495/2016 (S-KSRTC).

2. We have heard Shri. Mukkannappa S.B. learned counsel appearing for the appellant and Smt. H.R. Renuka, learned counsel appearing for the respondent.

3. The brief facts of the case are as follows:-

The appellant was an employee of the respondent-Corporation, working as a driver. Based on certain misconduct alleged against him, the respondent after holding an enquiry, dismissed the appellant from service by order dated 24.08.2006. As on the date of dismissal order, an industrial dispute raised by the KSRTC Staff and Workers Federation in I.D.No.148/2005 was pending before the Industrial Tribunal at Bangalore. Since the respondent-Corporation did not take any steps to reinstate the appellant into service, the appellant filed an application under Section 33C(2) of the Industrial Disputes Act, 1947 in the pending

dispute raised by the Union before the III Additional Labour Court at Bangalore, in Application No.8/2014, claiming full salary for the period from 24.08.2006 to 22.03.2014, amounting to Rs.10,49,412/-.

During the pendency of the said application, the respondent-Corporation came forward to settle the matter amicably, and accordingly a joint memo was filed before the Labour Court on 08.09.2014. The appellant voluntarily gave up his claim for full back wages and consequential benefits, while seeking continuity of service. In terms of the joint memo, the III Additional Labour Court, Bangalore, disposed of the application on the same day. Pursuant to such disposal, the respondent reinstated the appellant into service on 17.02.2015 by passing DEO Order No.173/2015 dated 05.03.2015. After reinstatement, the appellant was entitled to receive the current wages attached to the post of a driver. Accordingly, the appellant submitted a representation dated 15.12.2015 to the respondent seeking payment of current wages by extending notional pay fixation for the dismissal period. However, without properly

considering the said representation, the respondent issued an endorsement dated 10.06.2016 rejecting the appellant's claim.

Aggrieved by the endorsement dated 10.06.2016, the appellant filed W.P.No.54495/2016. This Court, however, dismissed the writ petition filed by the appellant in W.P.No.54495/2016 by order dated 07.07.2021.

4. The learned counsel appearing for the appellant submitted that it is evident from the joint memo dated 08.09.2014 that the respondent had agreed to reinstate the appellant into service with continuity of service, though without back wages and consequential benefits. It is contended that once the benefit of continuity of service is extended, the appellant is deemed to be in continuous service and is therefore entitled to notional pay fixation for the period from 24.08.2006 to 17.02.2015, i.e., from the date of dismissal till the date of reinstatement. However, the respondent - Corporation wrongly denied this benefit on the ground that consequential benefits were not extended, and hence the appellant was not entitled to notional pay

fixation. It is submitted that the said reasoning of the respondent - Corporation, as reflected in the endorsement dated 10.06.2016 is illegal.

5. The learned counsel appearing for the appellant places reliance on the following decisions:-

- ***A.N. Kanthraj v. The Assistant Executive Engineer & Others*, reported in **ILR 1999 KAR 4347**;**
- ***Sri. R.M. Venkatappa v. The Managing Director and Others*, by Order **dated 29.06.2021** passed in **W.P.No.34810/2017 (S-KSRTC)**;**
- ***Mahabir Prasad v. Delhi Transport Corporation*, reported in **2014 SCC OnLine Del 3757**; and**
- ***T. Narayana v. The Managing Director, A.P.S.R.T.C. & Ors*, reported in **1998 (2) A.P.L.J. 133 (HC)**.**

6. Though the respondents have not filed objections either in this writ petition or in the appeal, the learned counsel appearing for the respondent contends that the appellant is clearly not entitled to any relief in the instant case since the application filed by him under Section 33C(2) of the Industrial Disputes Act was disposed of in terms of a

joint memo which specified that the workman could not be entitled to backwages or consequential benefits but with continuity of service only. It is contended that continuity of service would only mean counting of the period of service and cannot be taken as conferring of any right for notional fixation of pay in view of the clear denial of backwages and consequential benefits. Reliance is placed on the decision of the Apex Court in ***J.K. Synthetics Ltd. v. K.P. Agarwal and Another*** reported in ***(2007) 2 SCC 433*** in support of the contention.

7. We have considered the contentions advanced. The Application filed by the appellant under Section 33C(2) of the Industrial Disputes Act had been disposed of on the basis of the joint memo filed by the parties. The joint memo specifically provided that the second party Corporation shall reinstate the complainant workman back into service without backwages and without consequential benefits but with continuity of service only. It is therefore clear that the reinstatement was without any other benefits, except continuity of service. Though the learned counsel for the

appellant has placed on record, several decisions of this Court as well as of the Apex Court in ***Mahabir Prasad's*** case (supra), we are of the opinion that the factual aspects of the matter have to be considered by this Court.

8. In ***A.N. Kanthraj's*** case (supra), the learned Single Judge of this Court held that treating a period of service as *dies non* would amount to denying continuity of service ordered by the Labour Court. Similarly in ***Shri. R.M. Venkatappa's*** case (supra), a learned Single Judge of this Court directed a reconsideration of a claim for treating the period of service for extending the benefit of selection grade. No proposition of law is laid down by the learned Single Judge. The other decisions relied on are by the learned Single Judges of other High Courts. In ***Mahabir Prasad's*** case (supra), the Apex Court has held that when a person is reinstated in service with continuity of service but without backwages, notional increments have to be granted for the period when he was out of employment. The said decision is one where reinstatement was ordered on merits with continuity of service.

9. We notice that the Apex Court in ***J.K Synthetics'*** case (supra) has specifically stated that, where reinstatement is a consequence of imposition of a lesser punishment, neither back wages nor continuity of service nor consequential benefits, follow as a natural or necessary consequence of such reinstatement. Where continuity of service is directed, it should only be for the purposes of pensionary or retirement benefits and not for other benefits like increments, promotions, etc. The Court held that there are two exceptions, the first is where the Court sets aside the termination as a consequence of the employee being exonerated, or being found not guilty of the misconduct and the second is where the Court reaches the conclusion that the inquiry was held in respect of a frivolous issue, or petty misconduct, and the punishment is excessive and disproportionate. In such cases, the Court would direct reinstatement with back wages and consequential benefits. However, in the instant case, Section 33C(2) application made by the appellant had been disposed of on the basis of

the joint memo without back wages and without any consequential benefits.

10. In the case of **A.P.SRTC and another v. S. Narsagoud** reported in **(2003) 2 SCC 212**, the Apex Court has clearly held at paragraph No.9, which reads as follows:-

"9. We find merit in the submission so made. There is a difference between an order of reinstatement accompanied by a simple direction for continuity of service and a direction where reinstatement is accompanied by a specific direction that the employee shall be entitled to all the consequential benefits, which necessarily flow from reinstatement or accompanied by a specific direction that the employee shall be entitled to the benefit of the increments earned during the period of absence. In our opinion, the employee after having been held guilty of unauthorised absence from duty cannot claim the benefit of increments notionally earned during the period of unauthorised absence in the absence of a specific direction in that regard and merely because he has been directed to be reinstated with the benefit of continuity in service."

In the case of **A.P. State Road Transport Corporation and others v. Abdul Kareem** reported in **(2005) 6 SCC 36** also, the Apex Court has followed the same reasoning.

11. The Apex Court in **J.K Synthetics'** case (supra), has considered the precedents on the point and has come to the conclusion that where no back wages or consequential benefits are ordered, then the issue of notional fixation of pay would also not arise, since the notional fixation and increments are a consequence of service. In the instant case as well, since continuity of service alone is granted, the contention of the appellant, that the right for notional fixation is to be read into the clause with regard to continuity of service, cannot be accepted.

12. In view of the fact that reinstatement of the appellant was on a joint memo filed by the parties which denied both back wages as well as consequential benefits and granted only continuity in service, we are of the opinion that the learned Single Judge, has come to the right conclusion. We find no error in the conclusion arrived at by the learned Single Judge. The appeal therefore fails and the same is accordingly **dismissed**.

All pending interlocutory applications shall stand
disposed of.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

cp*