

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.6024 of 2005

Date: 30.10.2015

Between:

G. Nageswara Rao,
Visakhapatnam.

.... Petitioner

And

The Industrial Tribunal cum
Labour Court, Visakhapatnam and another.

... Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 6024 of 2005

ORDER:

This writ petition was filed assailing the nil award dated 04.12.2000 passed by the Industrial Tribunal – cum – Labour Court, Visakhapatnam, in I.D.No.203 of 1998.

The petitioner herein filed the said I.D claiming that he worked as a casual driver in the Gajuwaka Depot of the Andhra Pradesh State Road Transport

Corporation (APSRTC) and that he was removed from service for producing a false educational certificate. The Labour Court affirmed the finding of the APSRTC authorities that the petitioner did, in fact, produce a non-genuine educational certificate to show that he was within the eligible age to secure the post of a casual driver and accordingly upheld his disengagement from service. The ID was therefore dismissed.

According to the management witness (M.W.2), the age restriction for appointment as a driver in the APSRTC is a minimum of 21 years and a maximum of 35 years for OC candidates. The petitioner is shown to be of 39 years of age in March, 2005. He joined the service of the APSRTC on 19.01.1988. He was therefore above 22 years of the age at the time of his engagement in the APSRTC. There is no reason to doubt the age of the petitioner as claimed by him in the writ petition as there is no rebuttal thereof. In effect, the petitioner was within the age restrictions.

Sri G. Rama Gopal, learned counsel for the petitioner, strongly contended before this Court that one K. Appa Rao, a driver in the service of the APSRTC, who committed the very same irregularity as the petitioner, was taken back in service but the same relief was not granted to his client.

Sri S.V. Ramana, learned Standing Counsel for the APSRTC, however drew a distinction between the two cases by pointing out that there was a long delay on the part of the petitioner in pursuing his remedies, while K. Appa Rao, driver in the Maddepalem Depot of the APSRTC, who was also removed for submitting a fake educational certificate, promptly filed an appeal before the appellate authority and upon its dismissal immediately filed a review petition, which was considered favourably, whereby he was appointed afresh as a casual driver.

It is no doubt true that the petitioner, having suffered removal from service on 16.06.1992, filed an application before the Regional Manager concerned in June, 1994. As the said authority was not the appellate authority, the petitioner was stated to have been advised to prefer an appeal. The petitioner thereupon filed an appeal only in April, 1997. Aggrieved by the dismissal of the appeal, instead of seeking a review before the Regional Manager, the petitioner filed the subject I.D before the Labour Court. These are no doubt distinguishing factors between the two cases but the essence of the irregularity committed by the two employees is identical.

That being so, there is no justifiable reason as to why a different yardstick

should be adopted in the case of the petitioner. In that view of the matter, the award dated 04.12.2000 passed by the Industrial Tribunal cum Labour Court, Visakhapatnam, in I.D.No.203 of 1998 is set aside and the APSRTC is directed to consider the case of the petitioner for appointment afresh as a driver subject to his fulfilling all the requisite eligible conditions. The petitioner shall make an application to the authority concerned in this regard with necessary documentation and thereupon, the candidature of the petitioner shall be considered in an available vacancy for appointment to the post of driver in accordance with the relevant rules. This exercise shall be completed expeditiously and in any event not later than two months from the date of receipt of the petitioner's application, subject to availability of vacancy.

The Writ Petition is accordingly allowed.

Pending Miscellaneous Petitions shall stand closed. No order as to costs.

SANJAY KUMAR, J

Date: 30.10.2015

va