

HON'BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION No.27085 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, declaring the action of the respondents in not releasing the consequential service and retrial benefits up to the date of petitioner's superannuation i.e., up to 31.05.2008, keeping in view of the judgment rendered by the Division Bench of this Court in W.A.No.1908/2005 dated 28.07.2009 as illegal and arbitrary and consequently direct the respondents to release all the service and retrial benefits treating the petitioner in service.

2. Heard Sri Chidagam Srinivas, learned counsel appearing for the petitioner and Sri A. Rama Rao, learned counsel appearing for the respondents.

3. The petitioner while working as Conductor in the respondent Corporation was removed from service on certain irregularities. The petitioner filed I.D.No.322/2001 before the Industrial Tribunal-cum-Labour Court, Anantapur and the same was dismissed. Aggrieved by the same, the petitioner filed W.P.No.8277/2004 and the same was also dismissed vide orders dated 19.08.2005. Thereafter, the petitioner filed W.A.No.1908/2005 and the Division Bench of this Court vide orders dated 28.07.2009 disposed of batch of writ appeals including W.A.No.1908/2005, observing that there was no evidence that the Conductors themselves produced the fake warrants and misappropriated the money. Accordingly, the Division Bench modified the punishment imposed upon the petitioner and other similarly situated persons, setting aside the orders of removal from service, directing their reinstatement into service, if not already retired, and imposing the lesser punishment of stoppage of two increments with cumulative effect.

4. The case of the petitioner is that in view of the order of the Division Bench, he is entitled for all the benefits treating him as in service after duly giving effect to the penalty imposed by the Division Bench. However, the respondents have not been releasing his service and retrial benefits. It is submitted by the learned counsel appearing for the petitioner that the Corporation paid the benefits till the date of removal, but as per the judgment of this court, he is entitled to the benefits till the date on which he actually attained the age of superannuation.

5. It is agreed by both the learned counsel appearing for the parties that the issue raised in this writ petition is squarely covered by orders passed by a single Judge of this Court in W.P.Nos.120 & 1443 of 2004, and W.P.No.961 of 2010.

6. In the aforesaid writ petitions, following the judgment of the Division Bench in W.A.No.1908/2005 and batch, while setting aside the order of removal from service passed against the petitioners therein, lesser punishment of withholding of two increments with cumulative effect is directed to be substituted therefor, which shall take effect from the date of the orders of the earlier punishment. It is further ordered that the petitioners shall be granted continuity of service in view of the setting aside of the removal orders and the same shall be taken into account for reckoning their pensionary benefits after giving effect to the substituted punishment of withholding of increments. Accordingly, directed the Corporation to complete the exercise and make due payment to the petitioners within a period of one month.

7. In view of the above, the respondents are directed to treat the petitioner as if he continued in service in view of the setting aside the order of removal from service, and the same shall be taken into account for reckoning his pensionary benefits, after giving effect to the substituted punishment of withholding of two increments, which shall

start from the date of earlier punishment, and release the service and retri al benefits by calculating the same up to the date of his superannuation, to the petitioner within a period of 4 (four) weeks from the date of receipt of a copy of this order.

8. The Writ Petition is accordingly allowed. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed in consequence.

R.KANTHA RAO,J

Date: 26.08.2015
BSS

HON’BLE SRI JUSTICE R.KANTHA RAO

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