

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

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W.P.No.1855 of 2004
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ORDER:

Heard Sri V.Narsimha Goud, learned counsel for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel for the respondent Nos.2 and 3.

2. This Writ Petition is filed seeking a Writ of Certiorari to quash the award dt.12-07-2002 in I.D.No.11 of 2002 of 1st respondent.

3. The petitioner joined in the services of the AP State Road Transport Corporation (for short 'the Corporation') on 07-04-1977 as a Booking Clerk on regular basis. He was promoted as a Conductor in the year 1979. While working under the control of the Divisional Manager, Nizamabad as Conductor, petitioner was imposed a punishment of removal from service vide Order dt.14-10-1980 and was removed from service. On appeal, the appellate authority passed an order dt.01-04-1981 allowing the appeal and substituting, in the place of order of removal, an order to reversion by reverting the petitioner to the post of Booking Clerk for a period of 12 months. Pursuant to the said order, the petitioner was reinstated into service on 23-06-1981 as Booking Clerk under the control of 2nd respondent.

4. On the expiry of period of 12 months, on 22-06-1982, the Corporation did not restore the petitioner to the post of Conductor and continued him as a Booking Clerk till 11-05-1984. The petitioner contends that in respect of this, he was making requests, but only on 11-05-1984 he was restored to the post of Conductor and the delay in restoration to the post of Conductor was 1 year 10

months and 18 days. The petitioner contends that he sustained loss in respect of his seniority in the post of Conductor and also suffered loss of service emoluments as the basic pay of Booking Clerk is less than the basic pay of a Conductor.

5. Petitioner contends that he was requesting 2nd respondent to consider his request to treat him as if he had been working as a Conductor from 23-06-1982 and fix his pay, but 2nd respondent dragged on the matter and did not accede to his request. Petitioner submits that he made a representation to 3rd respondent in this regard and the same was rejected on 07-04-2001.

6. A Trade Union in the Corporation espoused the petitioner and got the matter referred to 1st respondent-Tribunal as Industrial Dispute No.11 of 2002.

7. By Award dt.12-07-2002, I.D.No.11 of 2002 was allowed in part and it was declared that the petitioner was entitled to have his original post of Conductor with effect from 23-06-1982 but he was not entitled to monetary benefits from that date till 12-11-1999 (the date he approached the Regional Manager of Corporation for redressal of his grievance) since he kept quiet for more than 15 years (from 1984 to 1999).

8. Challenging the same, this Writ Petition is filed.

9. The learned counsel for petitioner contended that even though he could not have been continued as a Booking Clerk after 22-06-1982, on account of mistake of the Corporation, it continued to make him work as a Booking Clerk till 11-05-1984 on which date he was restored to the post of Conductor; and therefore he is entitled to wages as a Conductor from 22-06-1982 till 12-11-1999

which was denied by the Tribunal unjustly. He further contended that 1st respondent failed to note that the petitioner was being penalized on account of fault of the respondent-Corporation.

10. The learned counsel for the respondent Nos.2 and 3 on the other hand contended that the petitioner had approached the Regional Manager, Adilabad on 12-11-1999 only for redressal of his grievance; that this conduct of the petitioner in keeping quiet for a period of 15 years from 22-03-1984 (the date on which the petitioner was directed to be restored to the post Conductor) is a factor which was rightly taken into account by 1st respondent in denying monetary benefits for the period till 12-11-1999. He pointed out that 1st respondent had given the relief to the petitioner of being treated as a Conductor with effect from 23-06-1982 on paper; that it had directed his pay and allowance including increments in the scale to be shown on paper from 23-06-1982 to 12-11-1999; and had directed that from 12-11-1999 onwards, the petitioner should be given monetary benefit. He further contended that there is no error apparent on the face of record warranting interference with the impugned order by this Court under Article 226 of the Constitution of India having regard to the fact that it was the petitioner who approached the respondents after 15 years.

11. I have noted the submissions on both sides.

12. From the facts narrated above, it is clear that the petitioner was initially imposed punishment of removal by Order dt.14-10-1980. But on appeal, the said punishment was modified by Order dt.01-04-1981 into punishment for reversion to the post of Booking Clerk for a period of only 12 months. Accordingly, the petitioner was reinstated into service on 23-06-1981 as Booking

Clerk but on the expiry of 12 months period, on 22-06-1982, he was not immediately given post of Booking Clerk. At request of the petitioner, 2nd respondent passed orders restoring the petitioner to the post of Conductor on 11-05-1984 after a delay of 1 years 10 months and 18 days. Although the petitioner contended that he had been representing from time to time for grant of monetary relief with effect from 22-06-1982, there is no evidence of the petitioner having done so till 12-11-1999 (when the petitioner had approached Regional Manager, APSRTC, Adilabad with representation dt.12-11-1999). No doubt the said representation was rejected on 07-04-2001 and then an industrial dispute was raised by the trade union on behalf of the petitioner, and the matter was referred to 1st respondent.

13. In the absence of any evidence let in by the petitioner as to seeking redressal of his grievance for payment of monetary benefits as Conductor from 23-06-1982 prior to 12-11-1999, in my considered opinion, the Tribunal was justified in denying him monetary benefits for the period from 23-06-1982 to 12-11-1999. The petitioner was expected to be diligent in enforcing his claims and cannot approach the Corporation after a long delay of 15 years or more and claim wages for the intervening period from 11-05-1984 and 12-11-1999.

14. I therefore do not find any error apparent on the face of record in the Award dt.12-07-2002 in I.D.No.11 of 2002 passed by 1st respondent.

15. The Writ Petition fails and the same is accordingly dismissed. No costs.

16. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date : 22-01-2015
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