

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION Nos.37252 of 2015, 39603, 38448, 35065, 35767 of 2014

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DATED : 24.11.2015

W.P.No.37252 of 2015:

Between :

P.Srinivas Reddy S/o.Venkat Reddy,
Aged about 42 yrs, Driver (E-211241),
Telangana State Road Transport Corporation,
Picket Bus Depot, Secunderabad, T.S. & 4 others.

.. Petitioners

and

The Telangana State Road Transport Corporation,
Rep., by the Managing Director,
Bus Bhavan, Musheerabad, Hyderabad,
Telangana State & 2 others.

.. Respondents

W.P.No.39603 of 2014

Between :

R. Srinivasulu, S/o.Venkata Ramaiah,
Aged about 41 yrs, Driver (E-211454),
Bundlaguda Bus Depot, Hyderabad, T.S. & 5 others.

.. Petitioners

and

The Vice Chairman & Managing Director,
A.P.S.R.T.C., Bus Bhavan, Musheerabad, Hyderabad,
Telangana State & 2 others.

.. Respondents

W.P.No.38448 of 2014

Between :

K.Gnaneswar S/o.Anjaiah,
Aged about 48yrs, Occu : Driver, E.No.211075,
Working in APSRTC,
R/o.H.No.4-1-168, Adityanagar,
Bandlaguda, Ranga Reddy District & 44 others.

.. Petitioners

and

The APSRTC rep., by its Chairman & Managing Director,
Musheerabad, Hyderabad, & 2 others.

.. Respondents

W.P.No.35065 of 2014

Between :

T.Narsimhulu S/o.Anjaiah,
Aged 43 yrs, Driver, E.No.211119,
Working in APSRTC, Vikarabad Depot,
Vikarabad, Ranga Reddy District.

.. Petitioner

and

The APSRTC rep., by its Vice Chairman & Managing Director,
Musheerabad, Hyderabad & 2 others.

.. Respondents

W.P.No.35767 of 2014

Between :

N.M.S. Reddy S/o.Sathi Reddy,
Aged about 45yrs, Occu : Driver, E.No.211075,
Working in APSRTC, Hayatnagar-2 Depot,
Hayatnagar, Ranga Reddy District.

.. Petitioner

and

The APSRTC rep., by its Chairman & Managing Director,
Musheerabad, Hyderabad, & 2 others.

.. Respondents

This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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COMMON ORDER :

With the consent of learned counsel for the petitioners as well as learned Standing counsel for Respondents-Corporation, these writ petitions are disposed of at the admission stage.

2. In these writ petitions petitioners assail the decision of the respondent-Corporation to recover amounts from the petitioners on the ground that petitioners are not entitled to monetary benefits retrospectively from the date of regularization, but are entitled to such benefits only prospectively from the date of their regular appointment and excess amounts paid as well as fixation of increments from the retrospective date of regularization is erroneous.

3. In response to the notification issued in the year 1999, the petitioners were

recruited and appointed on casual basis as drivers/conductors/Shramiks and their services were regularized with effect from 01.07.2009. Aggrieved by inaction in granting regularization on completion of 240 days, W.P.Nos.20101, 22691 and 15466 of 2010 were filed by the petitioners. The said writ petitions were disposed of by common order dated 12.10.2011. This Court directed grant of regularization from 05.10.2007, however, it is held that petitioners are not entitled to monetary benefits on account of change of date of regularization from anterior date.

4. As a consequent to the regularization granted to the petitioners from 05.10.2007 the annual increments payable to the petitioners was determined and accumulated till their services were regularized and the arrears of amounts payable to them on account of accumulation of annual grade increments earlier are paid. By the orders impugned in the writ petitions, the said amounts were sought to be recovered on the ground that in accordance with the direction issued by this Court in the writ petitions referred to above, petitioners are not entitled to payment of monetary benefits but were entitled to notional fixation and therefore, the payment of monetary benefits treating the date of regularization as 05.10.2007 was erroneous.

5. Learned counsels for the petitioners contend that in terms of the directions issued by this Court in the earlier round of litigation, petitioners were granted regularization with effect from 05.10.2007. Once the regularization is granted from 05.10.2007, they are entitled to draw annual increments from year to year, counting 05.10.2007 as the starting point. However in view of the orders of this Court in the earlier round of litigation, from 05.10.2007 to 01.07.2009, they are not entitled to claim arrears of amounts including on the annual increments sanctioned and no amounts were paid to the petitioners for the period between 05.10.2007 and 01.07.2009. The recovery is sought on the erroneous ground that no increment is payable for the period prior to 01.07.2009 and seeking to recover the amount paid towards increments after 01.07.2009 on the illegal ground that no monetary benefits are payable to them in view of orders of this Court dated 12.10.2011. Learned counsel submit that said action of the respondents is *ex-facie* illegal.

6. Learned Standing counsel representing the respondents, contend that in view of the judgment of this Court in the earlier round of litigation, petitioners are not entitled to receive monetary benefits and arrears and whereas erroneously the

monetary benefits were paid to them and that only notionally increment is required to be fixed and therefore, monetary benefits paid to the petitioners erroneously is sought to be recovered.

7. The point for consideration is whether, petitioners are entitled to payment of amounts towards annual increment as a consequent to regularization of their services from 05.10.2007?

8. Once a person is regularly appointed and put in the scale of pay, such person is entitled to draw all annual increments on successful completion of one year incremental service. Though petitioners were working from long time, their services were originally regularized from 01.07.2009 which is ante dated to 05.10.2007. Thus, from 05.10.2007 they have been in regular service and they are entitled to draw annual increments on completion of one year incremental service computed from 05.10.2007. Thus, by 01.07.2009 they have completed one full annual incremental service and substantial portion of 2nd annual incremental service. The annual increments accrue in the said manner and accumulate in the subsequent years.

9. As fairly submitted by learned counsel, the amounts determined on account of annual increments accumulated to the petitioners, were paid only after 01.07.2009. Thus, it appears that no arrears are paid to the petitioners towards amounts accrued to them prior to 01.07.2009. If that is so, the question of holding that the petitioners were erroneously drawing monetary benefits for the period prior to 01.07.2009 does not arise.

10. In substance the stand of the respondents appears to be that the increments for the period from 05.10.2007 to 01.07.2009 are only to be accumulated but no physical amounts would be paid for ever.

11. On a reading of the orders passed by this Court in W.P.Nos.20101, 22691 and 15466 of 2010 dated 12.10.2011, it is clear that it is not the intendment of the Court to deny monetary benefits for a life time covering the period prior to 01.07.2009. Denial of monetary benefits relate to period prior to 01.07.2009. As a consequence to retrospective regularization petitioners were entitled to fixation of their pay in the scale attached to the post from 05.10.2007 and as a consequence, to commence incremental service. The increments for the period prior to 01.07.2009

get accumulated notionally till 01.07.2009 and employee is entitled to draw increments physically after 01.07.2009 including the increments notionally accrued. As long as increment is granted employee is entitled to draw monetary component. Thus, denial can be only till 01.07.2009, in view of earlier order of this Court and not permanently. The stand of respondent-Corporation has the effect of withholding of annual increment with cumulative effect, which can be only by way of disciplinary action.

12. Thus, the action of the respondent corporation to recover the amounts from the petitioners on the ground that petitioners are not entitled for monetary benefits on the increments accumulated for the period prior to 01.07.2009 and pecuniary amounts paid after 01.07.2009, under erroneous assumption, that forever, monetary benefits cannot be paid to the petitioners for the increments accumulated to them up to 01.07.2009 is illegal and the impugned proceedings are liable to be set aside and are accordingly set aside.

13. The writ petitions are allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

P.NAVEEN RAO,J

24th November, 2015

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