

HON'BLE SRI JUSTICE R. KANTHA RAO

+ WRIT PETITION No.31756 of 2015

%01.10.2015

Chintha Muniswamy

...Petitioner

VERSUS

\$ The Depot Manager, Andhra Pradesh State
Road Transport Corporation, Hindupur Depot,
Anantapur, A.P., & 3 others

...Respondents

< GIST:

> HEAD NOTE:

!Counsel for Petitioner: Sri V. Narasimha Goud

^Counsel for Respondents: Sri N. Vasudeva Reddy

? Cases referred

1. AIR 1990 SC 10(1)

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Writ Petition No.31756 of 2015

Between:

Chintha Muniswamy

.. Petitioner

And

The Depot Manager, Andhra Pradesh State
Road Transport Corporation, Hindupur Depot,
Anantapur, A.P., & 3 others

.. Respondents

JUDGMENT PRONOUNCED ON : 01.10.2015

HON'BLE SRI JUSTICE : R. KANTHA RAO

1. Whether Reporters of local newspapers :
may be allowed to see the Judgments?

2. Whether the copies of judgment may be :
marked to Law Reporters/Journals?

3. Whether their Ladyship/Lordship wish to :
see the fair copy of the Judgment?

HON'BLE SRI JUSTICE R. KANTHA RAO

Writ Petition No.31756 of 2015

ORDER:

Heard Sri V. Narasimha Goud, learned counsel appearing for the petitioner, learned Government Pleader for Labour and Sri A. Rama Rao, learned standing counsel for respondents 1 to 3-APSRTC.

2. The petitioner was appointed as driver in the year 1987 in the Corporation after undergoing due process of selection. His services were regularised in the year 1989. While so, he was removed from service by the 1st respondent vide order dated 27.02.2012. Thereafter, he preferred an appeal on 08.03.2013 under Regulation 22 of APSRTC, CC & A Regulation 1967 before the 2nd respondent within time, but his appeal was rejected on 06.03.2014 confirming the order of the 1st respondent. Feeling aggrieved, he preferred a revision under Regulation 29 of the APSRTC, CC & A Regulation 1967 before the 3rd respondent. The 3rd respondent vide order dated 30.03.2014 rejected the revision petition. Thereafter, the petitioner filed an application under Section 2A(2) of the Industrial Disputes Act, 1947 (for short 'I.D.Act') before the 4th respondent-Labour Court on 15.06.2015 questioning the order of removal, which was confirmed by the Appellate and Revisional Authorities. The 4th respondent raised an objection as to its maintainability on the ground of limitation that the industrial dispute shall be raised before the Labour Court or Industrial Tribunal questioning the termination before expiry of three years from the date of discharge, dismissal or termination of service. The said order is assailed in the present writ petition.

3. Section 2A(2) of the I.D. Act enables the employee, who was dismissed or discharged or retrenched, to maintain application under Section 2A(2) of the ID Act before the Labour Court or Industrial Tribunal for adjudication of the dispute. Section 2A(3) lays down that such an application shall be made to the Labour Court or Industrial Tribunal before expiry of three years from the date of discharge or dismissal or retrenchment or termination of services as specified under sub-section (1).

4. Sri V. Narasimha Goud, learned counsel appearing for the petitioner submits that since the petitioner questioned the dismissal order by filing an appeal and thereafter filed a revision and the period of limitation shall be computed from the

date of disposal of the revision filed by the petitioner and the 4th respondent-Labour Court went wrong in refusing to entertain the application submitted by the petitioner under Section 2A(2) of the I.D.Act for adjudication of the dispute.

5. The sole question that arises for consideration in the present writ petition is, whether the Labour Court is correct in refusing to entertain the application submitted by the petitioner under Section 2A(2) of the I.D. Act for adjudication on the ground that it was not submitted before the expiry of three years from the date of removal?

6. There is no dispute about the fact that the statutory remedies of appeal and revision were provided under the Regulations governing service conditions of the petitioner. The petitioner availed both the remedies and the appeal and revision filed by the petitioner were rejected on 06.03.2014 and 30.03.2014, respectively.

7. A similar issue was dealt with by the Hon'ble Supreme Court in '**S.S.Rathore vs. State of M.P.**,' wherein, the Supreme Court took a view that the period of limitation has to be computed after disposal of the one appeal or the entire hierarchy of reliefs as may have been provided. According to the Apex Court, the statutory guidance is available from the provisions of sub-ss.(2) and (3) of Section 20 of the Administrative Tribunals Act. The Supreme Court also concluded the issue in paras 20 and 21, which read as under:

"20. We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle.

21. It is appropriate to notice the provision regarding limitation under [s. 21](#) of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub- section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, [Article' 58](#) may not be invocable in view of the special limitation. Yet,

suits outside the purview of the [Administrative Tribunals Act](#) shall continue to be governed by [Article 58.](#)”

8. In the present case, the order dated 27.02.2012 passed by the Disciplinary Authority removing the petitioner from service gets merged with the orders passed in the appeal and revision. Therefore, for the purpose of entertaining the application under Section 2A(2) of the I.D. Act submitted by the petitioner, the period of limitation has to be computed from the date on which the last statutory remedy available to the petitioner was refused. In the instant case, the application submitted by the petitioner under Section 2A(2) of the I.D. Act, is, therefore, within the limitation and the 4th respondent-Labour Court went on wrong in refusing to entertain the application submitted by the petitioner.

9. The writ petition is, therefore, allowed by setting aside the impugned docket order of the 4th respondent and the 4th respondent-Labour Court is directed to register the industrial dispute for its adjudication. Miscellaneous petitions, if any, in this writ petition, shall stand closed. No order as to costs.

R. KANTHA RAO, J

Date: 01.10.2015

Note: LR copy to be marked

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HON'BLE SRI JUSTICE R. KANTHA RAO

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Writ Petition No.31756 of 2015

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Date: 01.10.2015

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