

HON'BLE MR JUSTICE R. KANTHA RAO

Writ Petition No.28581 OF 2015

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ORDER:

This writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking a writ of mandamus declaring the action of the respondent in rejecting the claim of the petitioner for fixing his pay on par with the pay of his junior Ch.Shiva Kumar vide proceedings No.Dy.Supdt. (P)/785(1)/2015-ZHB dated 25.03.2015 as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondent to pay all the benefits including arrears of salary duly fixing the pay of the petitioner on par with Ch.Shiva Kumar by counting the suspension period from 07.07.2001 to 27.09.2002 as on duty forthwith.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent-Corporation.

3. The petitioner is working as driver in the respondent's Corporation. While he was working as driver on route Zaheerabad-Nizambad on 23.06.2001 at about 0815 hours between Dhanwar-Lingampally, the bus collided with auto which resulted in damage of the bus. Admitting his guilt, the petitioner paid Rs.500/- towards the damage of the bus at the intervention of the village elders of Lingampally. The said matter was also mentioned in the SR No.A6/8420096, dated 23.06.2001.

4. Thereafter, at 10 p.m. on 23.06.2001 on return from duty, the petitioner reported the damage caused to the bus to the security guard which was also recorded in the damage entry book by the security guard. As per the instructions of the department, he got repaired the bus. However, the petitioner was suspended by the respondents on 07.07.2001 in relation to the aforementioned incident. Challenging the suspension order, the petitioner filed W.P.No.14296 of 2002. The learned single Judge of this Court suspended the suspension order by order, dated 13.08.2002. Pursuant to the

said order, the petitioner was taken back to duty on 27.09.2002. The grievance of the petitioner is that one Ch.Shiva Kumar, driver of Miyapur bus depot who is junior to him is drawing more salary than him and the representation dated 14.12.2011 submitted by him in this regard was not considered by the respondents. Thereafter, the petitioner filed W.P.No.3377 of 2012 and the same was disposed of on 13.12.2012 directing the authorities to consider the representation and pass appropriate orders. In pursuance thereof, the respondents passed order dated 28.04.2012 holding that due to pendency of W.P.No.14296 of 2002, the suspension period of one year two months 20 days was not regularised and therefore, there is a discrepancy in his salary. Subsequently, W.P.No.14296 of 2002 was disposed of on 13.10.2013 holding that since the suspension order was already revoked by the department, no further order is necessary in the writ petition.

5. In the aforesaid background, the petitioner made several representations including one dated 08.11.2013 requesting to release all his benefits including the arrears of increments apart from payment of salary for suspension period since the order of suspension was revoked by this Court.

6. The short question requires consideration in the present writ petition is whether the petitioner is entitled for all the benefits in view of the revocation of the suspension order passed by this Court in W.P.No.14296 of 2002. Obviously, in the instant case, the petitioner was only kept under suspension but no disciplinary proceedings were initiated against him. The suspension order was revoked by this Court in the above W.P.No.14296 of 2002. Therefore, the petitioner cannot be held to be guilty of any misconduct. In such an event, the period of suspension shall be considered as period spent on duty.

7. In view of the above, the writ petition is disposed of at the stage of admission directing the respondent to consider the period of suspension as spent on duty, regularise his service relating to the suspension period and pay him the salary and all consequential benefits as if the petitioner was not

suspended. There shall be no order as to costs. The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

R.KANTHA RAO, J

Date:28.09.2015

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THE HON'BLE SRI JUSTICE R.KANTHA RAO

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