

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.4702 of 2002

Date: 16-07-2015

Between:

Karanati Krishna

.... Petitioner

AND

The Vice Chairman and Managing Director,
APSRTC, Musheerabad, Hyderabad and another

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.4702 of 2002

ORDER:

This writ petition is filed for a mandamus declaring the action of the 2nd respondent in not implementing the circular No.48/95-OP (D) T, dated 21-07-1995 and circular No.8/95, dated 23-11-1995 to pay legal fee in respect of the petitioner as illegal and arbitrary and for a consequential direction to the respondents to pay the reimbursement amount towards legal fee of Rs.15,000/- being incurred by the petitioner.

2. The case of the petitioner is that he was an Ex-driver bearing No.100056 and while the petitioner was working in Shadnagar Depot, Mahabubnagar District, he was removed from service on account of accident took place on 11-10-1998 due to his rash and negligent driving by hitting the opposite van bearing No.AP-10-T-5735 near Timmapur, while driving the vehicle bearing No.AP-10-Z-5687 on the route from Hyderabad to Shadnagar, for

which he was removed from service vide proceedings DM (SDNR) No.01/2(14)/1998-SDNR, dated 11-03-1999. A criminal case registered against him was stopped by the criminal Court under Section 258 of the Code of Criminal Procedure as the prosecution has failed to produce witnesses since commencement of trial.

Thereafter, when the authorities refused to reinstate him into services, the petitioner filed a writ petition and the same was disposed of directing the respondents to consider his representations as per law and the circular issued by the authorities. The petitioner also filed an appeal before the Chief Traffic Manager seeking to reinstate him into services by considering the judgment dated 04-10-2000 in STC.No.296 of 1998 rendered by the Judicial Magistrate of First Class, Shadnagar and thereafter, the petitioner was reinstated, but the petitioner now claimed the benefit under circular No.01/2 (13)/95-OPD-T, dated 21-07-1995 for reimbursement of legal expenses incurred by him for defending himself in the criminal case registered against him. Aggrieved by the non-implementation of the circular dated 21-07-1995, the present writ petition is filed.

3. The respondent-Corporation filed its counter stating that the petitioner is not entitled for the sum of Rs.15,000/- towards legal expenses said to have been incurred by him in the criminal proceedings registered against him. Since the petitioner was not acquitted and only discharged under Section 258 Cr.P.C., he is not entitled for reimbursement of legal expenses and consequently, the circular dated 21-07-1995 has no application to the petitioner's case.

4. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

5. In this case, it is an admitted fact that the criminal

proceedings in STC.No.296 of 1998 registered against the petitioner were stopped under Section 258 of the Code of Criminal Procedure as the prosecution failed to produce witnesses. Thereafter, when the petitioner filed an appeal to the Chief Traffic Manager seeking to reinstate him into services by considering the judgment in S.T.C.No.296 of 1998, the same was rejected on technical grounds stating that the petitioner was not acquitted, but only the proceedings were stopped under Section 258 Cr.P.C. Questioning the same, the petitioner filed Crl.P.No.3618 of 2001 before this court wherein this court held that when stoppage of proceedings under Section 258 Cr.P.C. is made after the evidence of principal witnesses is recorded, it amounts to judgment of acquittal and in other cases, the release shall have the effect of discharge. This court also held that even though the learned Magistrate has not specifically mentioned that the petitioner is discharged, the effect of order of stoppage of proceedings, by virtue of the provisions contained in Section 258 Cr.P.C., has the effect of discharge of the petitioner. The only ground on which the respondent-Corporation has rejected the request of the petitioner is that since the petitioner is not acquitted for the alleged offences, he is not entitled to the benefits of the circular dated 21-07-1995.

As already stated, this court clarified in Crl.P.No.3618 of 2001 that the effect of stoppage of proceedings by virtue of proceedings under Section 258 Cr.P.C. has the effect of discharge of the petitioner. As such, in view of such clarification, the petitioner is entitled to the benefits of the circular, dated 21-07-1995. The petitioner herein stands in a better position than the person acquitted of criminal proceedings. Therefore, the stand taken by the respondent-Corporation cannot be accepted and is unsustainable and hence, the respondent-Corporation is liable to

pay an amount of Rs.750/- and Rs.2,000/- towards reimbursement of legal expenses as per clause E (2) of the Circular No.48/95-OPD (T), dated 21-07-1995, since the petitioner approached the trial court as well as High Court and also an amount of Rs.500/- towards fee for bail application as per Circular No.8/1995, dated 23-11-1995.

Accordingly, the respondent-Corporation is directed to pay the aforesaid amounts to the petitioner as per the circulars dated 21-07-1995 and 23-11-1995.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 16-07-2015

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