

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT PETITION No.440 of 2010

ORDER:

Heard the learned counsel for petitioner and the learned Standing Counsel for respondents 2 and 3.

2. The petitioner was appointed as a Conductor on daily wage basis on 16.02.2001 by proceedings of the third respondent. While the petitioner was working in Rajendranagar Depot, Hyderabad, an order was issued on 07.03.2003 stating that he was regularized with effect from 01.01.2002 and he would be appointed as a temporary Conductor. On 18.01.2003, while the petitioner was on duty on a bus proceeding from Rajendranagar to Ankampally, a check was conducted and the checking officials noticed that two passengers, who alighted at Machanpally, had no tickets with them. In connection with the said incident, a charge memo was issued to the petitioner on 18.01.2003 and it was followed by a show cause notice dated 25.01.2003. Subsequently, the employment of the petitioner was terminated, by orders dated 07.02.2003, by deleting his name from the approved list/select list of regularization without conducting any enquiry. Challenging the termination orders dated 07.02.2003, the petitioner filed an appeal before the third respondent, but the same was rejected, by order dated 18.03.2003, stating that there was no provision for appeal for Conductor employed on casual basis/daily wage. Aggrieved by the same, the petitioner filed I.D.No.115 of 2009 (old I.D.No.44 of 2007 on the file of the Labour Court-I, Hyderabad) on the file of the Labour Court-III, Andhra Pradesh, Hyderabad (for short, Labour Court). The Labour Court, by order dated 25.08.2009, passed the following order, challenging which the present writ petition is filed.

“3) Admittedly the petitioner is a contract conductor. Before the petitioner became eligible for regularization, the corporation found the petitioner committed misconducts and his regularization was therefore not done. Only grievance of

petitioner to say that principles of natural justice are violated is that the domestic enquiry was not conducted before punishment of removal. By Regulations of the corporation for contract worker there is no need to conduct enquiry before terminating the contract. The petitioner joined the service of corporation agreeing to the terms and conditions of the contract of which one condition is that the petitioner can be, without hearing, removed from service or his contract can be terminated. Now the petitioner cannot claim that before punishment enquiry is to be conducted.”

3. The name of the petitioner was removed from the approved list/select list of regularization without conducting any enquiry. In identical cases, respondents 2 and 3 were taking action after conducting enquiry. When respondents 2 and 3 have not conducted any enquiry, the Labour Court itself should have considered that fact and gave a finding with regard to validity of the order dated 07.02.2003 removing the petitioner from service.

4. In the circumstances, the impugned order dated 25.08.2009 passed by the Labour Court is set aside and the matter is remanded to the Labour Court for conducting enquiry and passing orders afresh in accordance with law. The writ petition is, accordingly, allowed. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 24.02.2016

TJMR