

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.28523 of 2016

ORDER

This writ petition is filed seeking to declare the order dated 12.07.2016 passed by the 3rd respondent reverting the petitioner from the post of Assistant Depot Clerk to the post of Conductor and withdrawing Grade-I up-gradation sanctioned with effect from 1.7.2012, as arbitrary and illegal.

The petitioner was initially appointed as a daily wage employee in the respondent-Corporation in the month of September, 1987 at Gudivada Depot. He was appointed as Conductor on 15.2.1989 on regular basis and probation was also declared on 15.2.1990. He was confirmed in the post of Conductor on 14.2.1994. In the seniority list published by the 3rd respondent on 23.05.2012, the name of the petitioner was shown at Sl.No.88. A Departmental Committee was constituted and it met on 31.3.2015 and recommended the case of the petitioner for promotion to the post of Assistant Depot Clerk. Accordingly, he was promoted on 4.9.2015 and was posted at Avanigadda Depot and he joined there on 6.9.2015. Thereafter, he was transferred to Jaggaiahpet Depot. Subsequently, an order of reversion was passed by the 3rd respondent on 12.07.2016. Challenging the same, the present writ petition is filed.

Counter-affidavit is filed on behalf of the respondents admitting the appointment of the petitioner as casual conductor

on 16.11.1987. It is stated that he was transferred from Avanigadda Depot to Jaggaiahpet Depot at his request on loss of seniority vide proceedings dated 5.7.1999. He was relieved at AVG Depot on 16.7.1999 and reported at Jaggaiahpet Depot on 19.7.1999. Accordingly, his seniority was fixed at Serial No.527 vide notification dated 4.1.2007 and at Serial No.492 of Krishna Region seniority list published vide notification dated 6.7.2012 and subsequently fixed at serial No.480 of Krishna Region Seniority list 2014, published vide notification dated 12.12.2014. The petitioner did not raise any objection on the seniority list in Krishna region. However, the name of the petitioner at serial No.88 in the seniority of MTM Division was not deleted and taking the said seniority into consideration, he was promoted as Assistant Depot Clerk erroneously. The fact of transfer of the petitioner from MTM Division to Krishna Region was not noticed and after noticing the same, the impugned order dated 12.07.2016 was passed by the 3rd respondent reverting him to the post of Conductor and withdrawing Grade I up-gradation sanctioned with effect from 1.7.2012.

The facts in this case are not in dispute. It appears that the promotion of the petitioner to the post of Assistant Depot Clerk was effected without noticing the fact of loss of seniority when he was transferred from Machilipatnam Division to Krishna Region. The petitioner was given Grade I up-gradation with effect from 1.7.2012 and he has been enjoying the same. In those

circumstances, prior notice ought to have been given to the petitioner by the respondents. In the absence of an opportunity given to the petitioner, this Court feels that the impugned order dated 12.7.2016 suffers from violation of the principles of natural justice.

Accordingly, the Writ Petition is allowed, setting aside the impugned order dated 12.7.2016. However, this order will not prevent the respondents from issuing notice to the petitioner and passing an order in accordance with law. No costs.

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

JUSTICE A.RAMALINGESWARA RAO

21st September, 2016
rkk

