

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

WRIT APPEAL No.765 of 2008

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JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The Andhra Pradesh State Road Transport Corporation (APSRTC) preferred this appeal aggrieved by the order dated 25.01.2008 passed in W.P.No.12269 of 2004. By the said order, a learned Judge of this Court set aside the award dated 16.05.2003 passed in I.D.No.153 of 2000 on the file of the Labour Court-II, Hyderabad, in part and directed the APSRTC to reinstate the respondent-workman in service with continuity of service and backwages. The reinstatement was to be effected in casual status but the respondent-workman was held entitled to consequential monetary benefits.

The respondent-workman was appointed as a Conductor Grade-II in the APSRTC on daily wage basis in June, 1999. She was issued proceedings dated 24.08.1999 removing her from service on the ground of the misconduct alleged against her. However, no regular enquiry was initiated prior to her removal from service. Aggrieved thereby, she filed I.D.No.153 of 2000 under Section 2-A(2) of the Industrial Disputes Act, 1947, before the Labour Court-II, Hyderabad. The Labour Court held in favour of the respondent-workman insofar as the illegality of her removal from service was concerned but denied her backwages as her services were not regularized and she was working only as a daily wage Conductor. The learned Judge was of the opinion that this conclusion of the Labour Court was unsustainable as the respondent-workman, being a daily wage Conductor, would have continued in service but for the interruption brought about by her illegal termination from service. On this ground, the learned Judge opined that the denial of the benefits of continuity of service and backwages to the respondent-workman was not proper. The learned Judge further observed that had the respondent-workman continued as a casual Conductor, she would have earned daily wages from the date of her illegal termination and the same would have entitled her to regularization in service as per the schemes evolved by the APSRTC in this regard.

Sri N. Praveen Reddy, learned counsel representing Sri N. Vasudeva Reddy, learned Standing Counsel for the Telangana State Road Transport Corporation, the successor-in-interest of the APSRTC in the State of Telangana, would however contend that a daily wage Conductor is not assured of continuous engagement and the services of such daily wage employees would be availed only as required on day-to-day basis. He would therefore assert that the benefits of backwages and continuity of

service granted by the learned Judge are not sustainable. We find merit in this submission.

Sri V. Narsimha Goud, learned counsel for the respondent-workman, informs us that upon reinstatement as a casual Conductor, the respondent-workman has been granted regularization in service in the year 2010 and she is presently working as a regular Conductor.

In that view of the matter, we are of the opinion that the direction to the APSRTC to pay backwages to the respondent-workman on the basis of the continuity of service granted cannot be sustained. There was no guarantee that the respondent-workman would have been engaged on a day-to-day basis without break subsequent to the date of her termination from service. That being so, in the light of the law laid down by the Supreme Court in **Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal**^[1] and **Bharat Sanchar Nigam Limited V. Bhurumal**^[2], we feel that lumpsum monetary compensation in lieu of backwages would sub-serve the interest of justice.

The APSRTC is therefore directed to pay compensation in lumpsum to the tune of Rs.50,000/- (Rupees Fifty Thousand only) to the respondent-workman in lieu of the relief of backwages granted by the learned Judge. This amount shall be remitted by the APSRTC within one month from the date of receipt of a copy of this order. In the event the APSRTC fails to remit the amount within the time stipulated, the respondent-workman would be entitled to interest thereon at the rate of 9% per annum. The order under appeal shall stand modified to this extent. The benefit of continuity of service granted by the learned Judge is however not disturbed.

Both the learned counsel expressed their agreement for disposal of the appeal in terms of the afore-stated directions.

The writ appeal is accordingly disposed of with the above directions. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Dr. B. SIVA SANKARA RAO, J

20th June, 2016.

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[\[1\]](#) (2010) 6 SCC 773

[\[2\]](#) (2014) 7 SCC 177