

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.22862 OF 2014

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, 1949, is filed by the petitioner to issue a writ of *Mandamus* by declaring the action of the 3rd respondent in appointing the petitioner on regular basis as driver in Rajahmundry Depot of A.P.S.R.T.C. with effect from 01.01.2011 as per his order dated 10.05.2011 instead of appointing him with effect from 01.01.2010 as illegal, arbitrary and contrary to the office order issued by the 1st respondent *vide* proceedings No.OS3/123(5)/2006-PO.III dated 22.02.2010 in violative of Article 14 of the Constitution of India and principles of natural justice.

The case of the petitioner, in brief, is that, he was appointed as contract driver on 24.04.2006 in A.P.S.R.T.C. at Rajahmundry Depot, East Godavari District and since then he was discharging his duties to the utmost satisfaction of his superiors. While things stood thus, the petitioner was removed from service, without conducting any enquiry, *vide* order of the 3rd respondent in proceedings No.PA/1(28)/8-RJY, dated 03.06.2008 and imposed a major penalty of termination. Consequently, the petitioner challenged the termination order by filing Writ Petition No.28550 of 2010; wherein, this Court on 19.11.2010 allowed the Writ Petition directing the respondents that the petitioner shall be entitled to the benefit of service between the date of termination and the date of re-engagement, but he shall not be entitled to any monetary benefits on this account. In pursuance of direction of this Court in W.P. No.28550 of 2010, the respondents re-engaged the services of the petitioner, regularizing his service only with effect from 01.01.2011 ignoring the direction issued by this Court in W.P. No.28550 of 2010. Therefore, on account of postponement of regularization of his services for one year, the petitioner suffered

monetary loss and prayed to pass an order directing the respondents to affect his regularization from 01.01.2010 setting-aside the impugned order passed by the respondents.

The respondents did not file any counter.

The Undisputed facts are that the services of the petitioner were engaged on contract basis, as driver, from 24.04.2006 and, thereafter, the petitioner was terminated from service by the impugned proceedings dated 03.06.2008, which were later set-aside by this Court in W.P. No.28550 of 2010.

The relevant portion in the order of the Writ Petition No.28550 of 2010 is the last paragraph of the order and it reads that the respondents were directed to re-engage the services of the petitioner; however, made it clear that the petitioner was entitled to the benefit of service between the date of termination till the date of re-engagement, disabling him to claim monetary benefits for the interregnum period. Thus, it is clear that the services of the petitioner shall be re-engaged from 01.01.2010 for calculation of his total service and other service benefits but the respondents need not pay any monetary benefit for the relevant period.

In view of the order of this Court in W.P. No.28550 of 2010, the petitioner is deemed to be continuing in service from 01.01.2010 and, thereby, he is entitled to claim regularization of his services with effect from 01.01.2010 but the respondents, without assigning any reason, regularized the services of the petitioner only with effect from 01.01.2011, which is totally contrary to the direction issued by this Court in W.P. No.28550 of 2010. Therefore, the impugned order passed by the respondents regularizing the services of the petitioner with effect from 01.01.2011 is contrary to the direction issued by this Court in W.P. No.28550 of 2010 and such order is nothing but

irrational or unreasonable one. In such case this Court, by exercising the power of judicial review under Article 226 of the Constitution, can interfere with such order. Hence, the impugned order of the respondents in effecting regularization of services of the petitioner with effect from 01.01.2011 is set-aside, while directing the respondents to regularize the services of the petitioner with effect from 01.01.2010.

Accordingly, with the above direction, the Writ Petition is disposed of.

In consequence, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. No order as to costs.

**M. SATYANARAYANA MURTHY,
J**

Date: 25-04-2016.
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