

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.4687 of 2003

ORDER:

This writ petition is filed for the following relief:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an order or writ direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in rejecting the claim of the petitioner for regularization of his services from the date of his initial appointment i.e.26.04.1988 like other candidates as illegal, arbitrary, unjust and violative of Articles 14 and 16 of the Constitution of India. Consequently set aside the impugned orders made in E1/255(26)/01-ED(Z) and also order in E1/229(12)/2000-RM-RTX dated 21.02.2002 passed by the respondent. Further, direct the respondents to regularize the services of the petitioner as Mechanic Gr-II with effect from the date of his appointment i.e. 26.04.1988 instead of 23.09.1988 and pass such other order or orders as this Hon'ble Court may deem fit and proper.”

Heard Sri S.A.Razack, learned counsel for the petitioner and S.V.Ramana, learned Standing Counsel for the respondent-Corporation apart from perusing the material available before the Court.

According to the petitioner, he was selected to undergo three years training in Trade of Mechanic in Andhra Pradesh State Road Transport Corporation, I.T.I., Lalaguda under the scheme of eligible employees' children and completed the said training including trade test, theory and practicals successfully by 16.12.1997.

The Office of the Managing Director *vide* proceedings bearing No.T1/502(1)/87-ITI, dated 12.04.1988, accorded sanction for appointment of the individuals mentioned in the said proceedings as Mechanics against direct recruitment quota of 25% admissible as per the cadre and recruitment regulations. In the said proceedings, the petitioner herein was shown at Serial No.16. Subsequently, *vide* proceedings bearing No.R1/28(2)/88-TO-VZM, dated 16.04.1988, the Deputy Chief Mechanical Engineer, APSRTC requested the Divisional Manager of the Corporation to appoint the candidates shown in the proceedings of the Managing Director, dated 12.04.1988, as Mechanics on casual basis against the vacancies at the Depots of the Division. Pursuant to the orders of the Divisional Manager, Kakinada, dated 18.04.1988, the Depot Manager, Kakinada *vide* Office Order bearing No.P1/232(17)/88-KKD, dated 26.04.1988, appointed the petitioner as Mechanic on casual basis at Kakinada Depot. Thereafter, *vide* Office Order bearing No.P1/232(6)/88-Dv.M/KKD, dated 03.10.1988, the Divisional Manager, Kakinada appointed the petitioner as Mechanic Grade-II with effect from 23.09.1988 purely on emergency basis under Regulation 17 of the APSRTC Employees (Recruitment) Regulations, 1966 in the time scale of pay. The said Office Order was followed by another Office Order bearing No.P1/232(11)/88-ELSM, dated 10.10.1988 issued by the Depot Manager, Eleswaram.

Subsequently, on 04.06.2001, the petitioner submitted a representation to the Deputy Chief Personnel Manager, Vizianagaram requesting to consider the date of initial engagement on casual basis for recruitment purpose instead of 23.09.1988 as mentioned in the Office Order, dated 03.10.1988. The Deputy Chief Personnel Manager rejected the said request made by the petitioner by way of an order, dated 16.08.2001. Thereafter, the petitioner approached the Chief Personnel Manager, APSRTC, Hyderabad by way of representation, dated 20.08.2001 for redressal of his grievance. The Office of the Regional Manager, Rajahmundry *vide* proceedings bearing No.E1/229(12)/2000-RM.RJY, dated 21.02.2002 turned down the request of the petitioner. The said rejection is under challenge in the present writ petition.

It is contended by the learned counsel for the petitioner that the impugned action on the part of the respondents in not regularizing the services of the petitioner with effect from 26.04.1988, in the teeth of the orders passed by the Managing Director on 12.04.1988, is neither sustainable nor tenable. It is further contended that there is absolutely no justification on the part of the respondent authorities in denying the benefit of regularization from an anterior date i.e. the date of initial appointment.

In support of his submissions and contentions, learned counsel for the petitioner places reliance on the judgments of this

Court in **APSRTC and another Vs. P.T.Rao and others¹** and **A.Rajeswar Vs. Managing Director, APSRTC and others²**

On the contrary, it is strenuously contended by the learned Standing Counsel for the respondent-Corporation that the present writ petition is liable to be dismissed on the sole ground of laches on the part of the petitioner. It is further contended that for a period of nearly 13 years, the petitioner kept quiet and it is not open for him to unsettle the issues already settled. It is also contended by the learned Standing Counsel that there is also no discrimination on the part of the respondents, since the services of as many as 15 individuals along with the petitioner were regularized on the same date.

In the above background, now the points that emerge for consideration of this Court are:

- (1) Whether the petitioner herein is entitled to maintain the present writ petition or whether the same is liable to be dismissed on the ground of laches?
- (2) Whether there is any discrimination in the action of the respondent-Corporation?

The material available before this Court manifestly discloses that as long back as on 16.04.1988, the Deputy Chief Mechanical

¹ 1998(3) ALD 45 (DB)

² 1998(5) ALD 409

Engineer made a request to the Divisional Manager, APSRTC, Kakinada to appoint the petitioner along with others as Mechanic on casual basis and pursuant to which, the Depot Manager, Kakinada *vide* Office Order, dated 26.04.1988, appointed the petitioner on casual basis and *vide* Office Order, dated 03.10.1988, the petitioner was decasualized and appointed as Mechanic Grade-II with effect from 23.09.1988 purely on emergency basis under Regulation 17 of the APSRTC Employees (Recruitment) Regulations, 1966. The said order was followed by another Office Order, dated 10.10.1988 issued by the Depot Manager, Eleswaram.

There is absolutely no explanation in the entire affidavit filed in support of the writ petition as to why the petitioner maintained absolute silence for a period of 13 years, from the above said dates till he filed his representation for the first time before the Deputy Chief Personnel Manager on 04.06.2001. In view of the absence of any explanation for the said delay, in the considered opinion of this Court, the writ petition deserves to be dismissed on the ground of laches. It is also required to be noted that in the event of extending the benefit, as sought in the writ petition, the rights of third parties also will get affected and it may result in unsettling the issues already settled. Therefore, this Court is not inclined to consider the request of the petitioner. Hence, Point No.1 is answered in favour of the respondents and against the petitioner.

Coming to Point No.2 i.e. whether there is any discrimination on the part of the respondents in denying the claim of the petitioner, it is to be noted that along with the petitioner, the services of as many as 15 candidates were regularized with effect from 23.09.1988 and the respondents did not show any discrimination. As such, Point No.2 is also answered against the petitioner and in favour of the respondents.

There is no dispute with regard to the principles laid down in the judgments relied upon by the learned counsel for the petitioner and in fact, in the considered opinion of this Court, the said judgments would not render any assistance to the petitioner in the facts and circumstances of the case.

For the aforesaid reasons, the writ petition is dismissed.

Consequently, Miscellaneous Petitions, if any pending in this writ petition shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Dt:02.11.2016.

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