

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.22340 OF 2006

ORDER:

Heard Mr.K.Vasudeva Reddy for petitioner and Mr.B.Jithender for respondents 3 and 4.

The writ petition is directed against the award dated 02.12.2005 in I.D.No.177 of 2003 in the Labour Court-II, Hyderabad. The 2nd respondent through the Award impugned in the writ petition ordered the industrial dispute as follows:

“In view of the above discussion and the statutory right to the petitioner the impugned retirement order dt.14.10.2003 is improper hence set aside.

In the result, this petition is allowed. The impugned retirement order dt.14.10.2003 is set aside. The respondent is directed reinstate the petitioner and to pay the salary to the petitioner which was drawing by the petitioner before impugned order dt.14.10.2003 with immediate effect. The respondent corporation is at liberty to provide alternative employment or create supernumerary post or to engage the petitioner's service in a suitable post to comply the mandate provision U/s 47 of the Persons with Disability Act, 1995. The respondent shall pay the back wages. The award shall come into force U/s 17-A of I.D Act, after 30 days of its publication.”

Learned counsel for petitioner submits that on 24.09.2007 the 1st respondent has been reinstated as Shramik and was retired from services on reaching the age of superannuation on 30.11.2011. The 1st respondent died on 25.06.2013. Respondent Nos.3 and 4 are the legal representatives of 1st respondent and are brought on record.

I have heard the counsel for the parties on the short point – whether the petitioner is entitled for back wages from 14.10.2003 till 23.09.2007 or not?

Mr.Jithender by placing reliance upon the order of the Hon'ble Division Bench in W.A.Nos.1120 of 2015 and batch contends that the order retiring the petitioner from 14.10.2003 firstly is unsustainable, illegal and the entitlement of 1st respondent to back wages is settled by the order of this Court in W.A.No.1120 of 2015 and batch. The operative portion of the common order reads thus:

“For the afore-mentioned reasons, the writ appeals must fail. However, before concluding, we need to address two more aspects - (a) as to the benefits, if any, received by any of the disabled drivers who are parties to this litigation; and (b) the contingency of raising future claims by disabled drivers who have already been discontinued, received the monetary compensation as per the Corporations' Regulations and Circulars and did not move the Courts so far.

As regards (a) supra, as Section 47 of the Act affords full protection to disabled drivers, to confer the benefits on them under the Regulations/Circulars as well as under Section 47, amounts to unjust enrichment. Therefore, the Corporations are entitled to recover the benefits already received by the disabled drivers in terms of the Regulations/Circulars by deducting from the salaries payable to them consequent upon their reinstatement by virtue of this judgment, in easy instalments not exceeding Rs.5,000/- (Rupees five thousand only) per month. If the Corporations will not be able to recover the entire amounts through this process before any of the disabled drivers reaching their superannuation, they can recover the balance amounts from their retirement benefits.

Qua the category of disabled drivers in (b) supra, we direct that those disabled drivers who have already received the benefits under the Regulations/Circulars and have not approached this Court so far claiming protection under Section 47 of the Act, are not entitled to seek relief based on this judgment, on the principle of laches and in order to prevent entertainment of stale claims and the settled claims from being unsettled.

Subject to the above conditions, all the writ appeals are dismissed.

As a sequel to dismissal of the writ appeals, pending miscellaneous petitions in these appeals shall stand disposed of as infructuous.”

I have perused the findings recorded by the 2nd respondent and also the view taken by the Hon’ble Division Bench.

Having regard to the view taken by the Hon’ble Division Bench and also the reasoning given by 2nd respondent, the grant of back wages from 14.10.2003 till 02.12.2005, no exception can be taken and further the respondents have taken one year nine months to reinstate the 1st respondent even as “Shramik”. Therefore, the 1st respondent is entitled to back wages from 14.10.2003 till 23.09.2007. As the petitioner had already died, to give quietus to the litigation, this Court directs the petitioner herein to pay the back wages to respondents 3 and 4 within two months from the date of receipt of a copy of this order. Except the above, no other point is urged.

Hence, the writ petition is dismissed. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

Date:13.10.2016

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