

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.25422 of 2016

ORDER:

Heard the learned counsel for the petitioners and Sri S.V.Ramana, learned Standing Counsel for the respondents.

2. Petitioners have filed this Writ Petition challenging the action of the respondents in not extending the benefit of yearly increment after completion of each year service after the date of their regularization of service on par with their colleagues.

3. It is not in dispute that the petitioners were initially terminated from service on different dates but they were reinstated into service.

4. Subsequently they filed Writ Petition Nos.11651 of 2011, 10773 of 2011 and 10131 of 2011 before this Court. Challenging the action of the respondents in treating them as fresh appointees and not giving them continuity of service between date of termination of their service and the date of their reengagement.

5. These Writ Petitions were allowed on 26-04-2011, 19-04-2011 and 15-04-2011 respectively. This Court held that the petitioners are entitled to continuity of service between the date of termination and the date of re-engagement on the condition that they are not entitled to monetary and other benefits.

6. Thereafter, the services of the petitioners were regularized by the 2nd respondent through an order dt.10-10-2011 as Driver Grade-II with effect from 01-01-2010 with probationary rights but without monetary benefit from 10-10-2011.

7. Petitioners contend that since they were regularized with effect from 01-01-2010 as Drivers Grade-II, on the expiry of one year period therefrom, they are entitled to increments, and instead of giving such increment on 01-01-2011, and an other increment at the end of each succeeding year, the respondents have misinterpreted the orders passed by this Court and granted the first increment from 10-10-2012 instead of 01-01-2011.

8. Learned counsel for the petitioner contends that having regularized services of the petitioners with effect from 01-01-2010, the respondents cannot ignore the said date and count their service only from 10-10-2011 and deny them first increment payable on 01-01-2011.

9. Learned Standing Counsel for the respondents on the other hand contended that the respondents have correctly understood the principle laid down in W.P.No.11651 of 2011 and batch referred to above and since the High Court in the said cases had denied monetary or other benefits to the petitioners, the petitioners are not entitled to the annual increment on 01-01-2011.

10. It is not in dispute that the High Court in the above cases while directing the respondents to give continuity of service between the respective dates of their termination and the dates of their re-engagement had imposed a condition that they shall not be entitled to any monetary or other benefits. Thereafter, the respondents have regularized the services of the petitioners by order 10-10-2011 as Drivers Grade-II with effect from 01-01-2010 but without monetary benefits.

11. The obvious intention of the order of the High Court was that the petitioners would not be able to claim salary, for the period between the date of their termination and the date of their re-engagement. It was not the intention of the High Court when it passed the order in the above Writ Petitions that the services of the petitioners from 01-01-2010 cannot be counted for grant of increment on 01-01-2011.

12. Therefore, I am of the opinion that the respondents have misinterpreted the order passed by this Court and denied the first increment payable to the petitioners from 01-01-2011 and erroneously took a view that they are entitled to said increment only from 10-10-2012.

13. Accordingly, the Writ Petition is allowed and the action of the respondents in not extending the benefit of yearly increment after completion of each year's service of the petitioners from

01-01-2010 is arbitrary and violative of Article 14 of the Constitution of India and the respondents are directed to extend to the petitioners the benefit of yearly increment with the first increment becoming payable on 01-01-2011. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 16-11-2016
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