

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.26054 of 2014

ORDER:

The petitioner was appointed as a driver on 01.09.1989. He was suspended from service by proceedings dated 20.12.1991 by the Depot Manager, Narayankhed while he was working there. Later on, after the enquiry, his services were terminated by proceedings dated 22.03.1993. Challenging the said termination, the petitioner filed I.D.No.80 of 1995 and in the said I.D., an award was passed on 05.02.1997 by the Labour Court-II, Hyderabad setting aside the order of removal and directing the respondent therein to reinstate the petitioner into service with all benefits such as continuity of service without any back wages. He was reinstated into service on 10.03.1998. When no increments were paid from the date of suspension till the date of reinstatement, the petitioner filed W.P. No.4025 of 2004 and the same was allowed. In spite of allowing the writ petition, when no action was taken, the petitioner filed C.C.No.673 of 2004 and an amount of Rs.42,363/- was paid towards difference of notional increments. While calculating the notional increments, the period of suspension was not taken into consideration, but it was calculated from the date of termination to the date of reinstatement. In the process, the petitioner lost two increments. This writ petition is filed challenging the action of respondents in not adding the increments for the period from 20.12.1991 to 22.03.1993.

A counter affidavit is filed on behalf of the respondents

admitting the above facts, but ultimately stated as follows:

“8. I respectfully submit that the present writ petition is filed seeking a direction to the Respondents herein to fix the pay of the petitioner by adding two increments for the period with effect from the date of suspension till the date of removal i.e., 20.12.1991 to 22.03.1993. It is submitted that the period of suspension is not countable for the purpose of adding increments as per the APSRTC Employees Pay & Allowance Regulations. In the orders dated 05.03.2004 in W.P. No.4025 of 2004, this Hon’ble Court was pleased to clarify the orders in Award dated 05.02.1997 in the I.D.No.80/95 that “all consequential benefits flow from the order includes notional increments and also the stagnation increment and fixation of pay”, as such there is no direction for adding the increments during the suspension period as it is contrary to the APSRTC Regulations.”

In the earlier round of litigation, this Court disposed of the writ petition by holding that there was a specific direction by the Labour Court directing the respondents to reinstate the petitioner with all benefits except back wages, and therefore, all consequential benefits flow from the order including notional increments and also the stagnation increment and fixation of pay. When the petitioner is reinstated into service, the reinstatement shall be related from the date of suspension, but not from the date of termination. In the instant case, the increments of petitioner were calculated from the date of termination to the date of reinstatement, but the period from the date of suspension to the date of termination was omitted. Since the petitioner was reinstated pursuant to the order of Labour Court, he is entitled for calculation of increments from the date of suspension from service to the date of reinstatement and the respondents are accordingly directed to calculate the notional increments.

With the above observations, this Writ Petition is allowed.
No order as to costs. Miscellaneous Petitions pending, if any,
shall stand closed.

A.RAMALINGESWARA RAO, J

17.08.2016

MVA