

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER**

Writ Appeal No.859 of 2012

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.3345 of 2012 dated 09.02.2012. The appellant is the petitioner in the writ petition wherein he sought a declaration that the proceedings issued by the 2nd respondent terminating his services, as modified by the proceedings dated 07.03.2009 in so far as the denial of continuity of service and back wages were concerned, was illegal and arbitrary.

The petitioner, a contract Driver engaged on a casual basis, was involved in an accident which occurred between Tirupati and Karakambadi on 10.01.2008 in which a pedestrian sustained grievous head injuries and, after being admitted to SVIMS Hospital, Tirupati, he died. The contract of employment of the petitioner was terminated by the Depot Manager on 28.01.2008. Contending that such termination amounts to punishment, which could not have imposed without a departmental enquiry being held, the appellant-writ petitioner invoked the jurisdiction of this Court.

In the order under appeal the Learned Single Judge, followed the orders passed earlier in W.P.No.16020 of 2011 dated 14.06.2011 and W.P.No.8090 of 2010 dated 12.04.2010, wherein it was held that contract employees, who were re-engaged on the orders of removal being set aside, were entitled to the benefit of past service, and allowed the writ petition. The respondents were

directed to engage the appellant-writ petitioner with the benefit of continuity of service between the date of termination and the date of re-engagement, only for the purpose of regularisation in an existing or future vacancy. The appellant-writ petitioner was, however, held disentitled to any monetary or other benefits pursuant to the order.

Sri K.Venkata Ramaiah, learned counsel for the appellant-writ petitioner, would refer to the judgment of a Learned Single Judge of this Court in W.P.No.8090 of 2010 dated 12.04.2010 to contend that the order of termination is liable to be set aside, the appellant-writ petitioner to be reinstated to duty, and consequently for payment of all back wages. We must express our inability to agree.

The appellant-writ petitioner was not a regular employee in the A.P.S.R.T.C. His services were engaged on a casual basis, and were governed by the terms and conditions of the contract which permitted his services to be summarily disengaged. The reason for his services being dispensed with was that, while he was driving the bus, a gruesome accident occurred resulting in the death of a pedestrian. The very fact that a pedestrian died, on collision with the APSRTC bus which the appellant was driving, would justify the decision of the APSRTC not to continue the services of the contract driver.

The Learned Single Judge has taken a lenient view, and has directed the appellant-writ petitioner to be reinstated with continuity of service from the date of termination till the date of his re-engagement for the purpose of regularisation. All that the appellant-writ petitioner has been denied is the monetary and

other benefits between the date of his termination and his re-engagement. In an intra-court appeal, under Clause 15 of the Letters Patent, interference is called for only if the order under appeal suffers from a patent illegality. We do not find any such infirmity in the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

03rd March, 2017
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(DR. SHAMEEM AKTHER, J)



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Date: 03.03.2017

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