

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 3230 of 2009

Order:

This Writ Petition was filed by the petitioner, who was working as Conductor and retired from service in the meanwhile, challenging the award in I.D.No.157 of 2007 dated 12.11.2008 to the extent of not granting continuity of service, attendant benefits and back wages to him, though he was reinstated into service pursuant to the order passed by the competent authority in a review on 13.04.1998.

The Labour Court, by award in I.D.No.157 of 2007 dated 12.11.2008, dismissed the ID on the ground that the ID was not maintainable since the petitioner took up the employment pursuant to the order dated 13.04.1998 passed by the competent authority in a review petition filed by him.

Learned Standing Counsel for the second respondent pointed out that the petitioner cannot file an industrial dispute after accepting the order in review and joining in service.

Learned counsel for the petitioner submitted that the said issue is no longer *res integra* and this Court in K. Karunakar v. APSRTC, Hyderabad¹ held that the aggrieved workman can challenge that portion of the order denying him the complete relief and can raise an industrial dispute even after accepting an order passed by the competent authority which was partially beneficial to him.

As per the above said decision, the matter has to be enquired by the Labour Court afresh on the basis of record available before it. However, learned Standing Counsel for the second respondent also raised

¹ 2006(2) ALD 353

the point of limitation in filing the ID and in view of remand of the matter, this Court is not inclined to consider that point and gives liberty to the second respondent to raise that point also, if it chooses, when the matter is taken up by the Labour Court.

In the circumstances, the impugned award in I.D.No.157 of 2007 dated 12.11.2008 is set aside and the case is remanded to the Industrial Tribunal-cum-Labour Court, Anantapur for disposing of the matter afresh on the basis of the available record within a period of six (6) months from the date of receipt of a copy of this order. It is open to the parties to raise all pleas without adducing further evidence on the basis of available record. Since the petitioner retired from service, the Labour Court shall endeavour to dispose of the matter within the above stipulated time.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 28.06.2017
Nsr