

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8974 OF 2000

ORDER:

The writ petition is filed questioning the action of the respondent in not regularizing the petitioner's services with effect from his date of initial appointment and not publishing the seniority list of Messenger-cum-Sweeper as illegal and arbitrary.

It is the case of the petitioner that he has been appointed as a part time Sweeper on 31.03.1986 on temporary basis and thereafter his services were regularized with effect from 26.12.1988 as a part time Sweeper-cum-Messenger on regular basis and thereafter the petitioner was appointed on a regular basis on 1.2.1991 and later the petitioner was promoted as a clerk. Inasmuch as the National Industrial Tribunal in its Award dated 20.03.1993 had held that the employees in the sub staff category who are in service of R.R.Bs as on 22.2.1991 and who have completed 240 days of continuous service after that date shall be treated as regular employees of R.R.Bs w.e.f 22.2.1991. As a matter of fact, this Court by a common order dated 03.09.2003 in W.P.No.29116 of 1995 and 33304 of 1997, after taking into consideration of the National Industrial Tribunal's Award dated 30.04.1990, had directed that the regularization shall be made with effect from the initial appointments of the petitioner. In those circumstances, the denial of seniority to the petitioner with effect from 31.3.1986 is arbitrary and illegal and the petitioner is entitled to be reckoned with effect from 31.3.1986.

A counter affidavit is filed by the respondents and particularly in para No.8 of the counter-affidavit it was categorically stated that as per the Award dated 20.03.1993 of the National Industrial Tribunal, the services of the petitioner were regularized w.e.f 20.2.1991 i.e., prior to the date of acceptance of N.I.T Award. In the Award of the Tribunal as it

is made clear that the same is prospective and it has already done with effect from 22.2.1991, the Award of the National Industrial Tribunal has no application to the petitioner's case.

Having considered the respective submissions, it may be noted that no reply is filed denying the specific averments made in the counter-affidavit that the Award of the National Industrial Tribunal dated 20.03.1993 is prospective in nature. The reliance placed on the common order dated 03.09.2003 passed by this Court in W.P.No.29116 of 1995 and 33304 of 1997, prima facie, has no application inasmuch as what the learned single Judge of this Court was considering the Award dated 30.04.1990 and not the Award on which the petitioner is placing reliance.

In those circumstances and considering the fact that the petitioner had also approached the Court in the year 2000 making up an issue with regard to the initial appointment and seniority of the year 1991, the writ petition is also liable to be dismissed on the ground of latches apart from there being lack of merits on the facts of the case.

Accordingly, the writ petition is dismissed. Miscellaneous petitions, if any pending, shall also stand dismissed. No order as to costs.

CHALLA KODANDA RAM,J

Date:10.07.2017
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