

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.8324 OF 2010

DATED : 07.11.2017

Between :

Y.Srinivasulu S/o.Ilaiah,
Aged about 42 yrs, Occu : NMR Watchman,
Andhra Pradesh Industrial Infrastructure Corporation Limited,
Moula-Ali, R/o.Hyderabad

.. Petitioner

And

Telangana Industrial Infrastructure Corporation Limited,
VI Floor, Parishram Bhavan, Basheerbagh, Hyderabad,
rep., by its Vice Chairman & Managing Director

.. Respondent



This court made the following :

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ORDER :

Heard learned counsel for the petitioner and learned Standing Counsel for the respondent-Corporation.

2. Petitioner was appointed as Nominal Muster Role (NMR) worker on 10.02.1987 in the respondent-Corporation. While so, with effect from 01.01.1993 his services were terminated by an oral order. Aggrieved by the said termination petitioner filed I.D.No.35 of 1993 in the Industrial Tribunal-cum-Labour Court, Warangal (for short 'the Labour Court'). By Award dated 11.06.1996 the Labour Court declared the termination of petitioner as illegal and directed reinstatement of petitioner into service as regular employee, but denied back wages.

3. Aggrieved by the Award passed by the Labour Court, the respondent-employer filed W.P.No.22284 of 1996. During the pendency of writ petition, petitioner was paid Section 17-B wages. The said writ petition was heard and dismissed by judgment dated 08.04.2002. However, on the contention urged by the respondent-Corporation, that the direction issued by the Labour Court to treat the petitioner as a regular employee was erroneous, this Court clarified the same by holding that the term 'regular' used by the Labour Court is to the effect that petitioner be reinstated as NMR and that a workmen is entitled to continuity of service. However, petitioner was reinstated on 05.08.1998 and has been working continuously thereafter. After the reinstatement, petitioner has

made an application for regularization of his services. The claim of the petitioner for regularization of service was considered in accordance with the scheme formulated by the Government and notified vide G.O.Ms.No.212 dated 22.04.1994. The claim was rejected on the ground that as on 25.11.1993 the cut off date prescribed in Act, 2 of 1994, petitioner was not in employment of the respondent-Corporation and therefore not entitled to claim regularization. According to the respondent from 01.01.1993 till 05.08.1998 petitioner was not working in the respondent-Corporation and therefore, the question of regularization does not arise.

4. Now the only issue for consideration is whether the rejection of the claim of petitioner for regularization on the ground that petitioner was not in physical service as on 25.11.1993 is valid ?

5. As briefly noted above, against an oral termination dated 01.01.1993, petitioner filed I.D.No.35 of 1993 and on evaluation of the evidence on record, the Labour Court categorically found that the termination was in violation of Section 25 (F) of the Industrial Disputes Act, 1947 and thus illegal and therefore issued consequential directions. When once the order of termination is declared as illegal, the employee is entitled to all consequential benefits flowing there from. Since termination is declared as illegal, it is deemed that employee is in service on 25.11.1993. The clarification issued by this Court in W.P.No.22284 of 1996 is also to the same extent. That being so, rejection of the claim of the petitioner for regularization of his services on the ground that petitioner was not in physical service of the respondent-

Corporation on 25.11.1993 is to be rejected and the decision impugned in the writ petition is liable to be set aside. Consequent to the Award passed by the Labour Court, petitioner is deemed to be in service as on 25.11.1993 and therefore, he is entitled to all benefits flowing there from. Thus, petitioner is entitled to be considered for regularization of his services, if he is fulfilling the requirements of terms of consideration for regularization as per G.O.Ms.No.212.

6. At this stage, learned counsel for the petitioner contends that one person by name V.V.Krishna Reddy who was junior to the petitioner also employed as NMR worker initially, was regularized. Therefore, denial of claim of the petitioner for regularization is *ex-facie* illegal.

7. Thus, while setting aside the order and remitting the matter to the competent authority for consideration of the claim, without reference to the earlier objection, the respondent is directed to consider the claim of the petitioner for regularization, subject to fulfilment of conditions imposed in G.O.Ms.No.212 and duly taking note of the contention of the petitioner that junior to him by name V.V.Krishna Reddy was already regularized.

8. Having regard to the fact that the issue of regularization is pending for long time, the respondent is directed to consider the claim of regularization of the petitioner and communicate suitable decision, as expeditiously as possible, preferably within a period of eight (8) weeks from the date of receipt of copy of this order.

9. With the above directions, the Writ Petition is allowed.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

7th November 2017
Rds

P.NAVEEN RAO,J

