

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.845 of 2010

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

The appellant herein is the petitioner in W.P. No. 3084 of 2005. He was engaged as a daily wage conductor in the year 1988. On the ground that he had committed certain acts of mis-conduct, he was removed from service questioning which he approached the Labour Court, Godavarikhani under Section 2-A (2) of the Industrial Disputes Act in I.D. No. 266 of 1990.

By its award, in I.D. No. 266 of 1990 dated 4.10.1991, the Labour Court held that there was some dereliction of duty on the part of the appellant-petitioner, but there was no *mala fide* intention on his part; the punishment was disproportionate; and, therefore, denial of back wages and denial of all other benefits would be sufficient punishment for the petitioner, but not the extreme punishment of removal from service. The order of removal, passed by the respondent-management with effect from 15.12.1989, was set aside; and the appellant-writ petitioner was directed to be reinstated into service with continuity of service, but without any other attendant benefits and without any back wages. The Labour Court further held that the appellant-writ petitioner was entitled to salary from the date of expiry of thirty days from the date of publication of the award. The award was published on 18.12.1991 and the thirty day period after publication expired on 17.1.1992.

The services of the appellant were regularized as a Conductor with effect from 1.8.1994. On the ground that the services of his juniors were regularized with effect from 20.3.1991, whereas his services were regularized only from 1.8.1994, the appellant filed the present writ petition in the year 2005. By the order under appeal, the learned Single Judge, taking note of the fact that the writ petition was filed belatedly,

directed the petitioner's services to be regularized with effect from 20.3.1991 instead of from 1.8.1994, but made it clear that this benefit of regularization, with retrospective effect, should be taken into consideration only for the purpose of seniority but not for any other benefits, because, though the cause of action arose in the year 1994, the writ petition was filed in the year 2005. Aggrieved thereby, the present appeal.

Sri P. Sridhar Rao, learned counsel for the appellant, would submit that, since the appellant-writ petitioner must be deemed to have continued in service 30 days after publication of the award, ie from 17.1.1992, even if he is held disentitled for payment of all monetary benefits from the date his juniors were regularized on 20.3.1991, he is at least entitled to these benefits from 17.1.1992; denial of monetary benefits, increments etc., from 17.1.1992 till 1.8.1994 is illegal; and the learned Single Judge failed to note that the appellant was an employee of the State Road Transport Corporation, and was entitled to be treated on par with his juniors.

As noted hereinabove, the appellant was reinstated pursuant to the award of the Labour Court. The award of the Labour Court was for reinstatement without back wages. The appellant, who was a daily wage conductor when he was removed from service, could have been reinstated into service only as a daily wage Conductor. It is not known whether or not his juniors, whose services were regularized from 20.3.1991, were subjected to any such punishment. The fact however, remains that the Corporation, on its own accord, regularized the services of the appellant from 1.8.1994.

In the order under appeal the learned Single Judge, while directing the Road Transport Corporation to extend to the appellant-writ petitioner the benefit of regularization, however chose not to grant him monetary benefits in the interregnum from 20.3.1991 till 1.8.1994 on the ground of inordinate delay in filing the writ petition. The appellant's services were

regularized with effect from 1.8.1994 and it is after eleven (11) years that he filed the present writ petition in the year 2005.

As has been held by the Supreme Court in **Regional Manager, A.P.S.R.T.C. vs. N. Satyanarayana**¹, inordinate delay and laches would justify the Court denying the relief sought for in the writ petition. A similar prayer for regularization with effect from an earlier date was rejected by the Supreme Court holding that the petition is unduly belated. In the present case also, the appellant-writ petitioner, whose services were regularized with effect from 1.8.1994, filed the writ petition eleven years thereafter, in the year 2005. The learned Single Judge took a lenient view and, while extending to the appellant-writ petitioner the benefit of regularization with effect from 20.3.1991 for the purpose of seniority, however denied him monetary benefits. In proceedings under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We see no 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)

(Dr. SHAMEEM AKTHER, J)

20th February, 2017

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¹ (2008) 1 SCC 210

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