

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HON'BLE SRI JUSTICE M. GANGA RAO

+ W.A.NO.511 of 2006

% Date: 14-11-2017

Between:

S.S. Basha S/o. Sri S. Md. Khaseem
R/o. 5/97, Koleem Street,
Rajampet, Kadapah District.

..... Appellant

And

1. A P S R T C rep. by its Chairman & M.D, Musheerabad, Hyderabad.
2. A P S R T C rep. by its Regional Manager, Kadapah Region,
Kadapah District.
3. A P S R T C, rep. by its Depot Manager, Kadapah Depot, Kadapa
District.

... Respondents

! Counsel for the appellant : Mr. G. Ravi Mohan

^ Counsel for Respondents : Mr. A. Rama Rao

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> HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.511 of 2006

JUDGMENT: (Per VRS,J)

The workman has come up with the above writ appeal, challenging one portion of the order of the learned Single Judge, which actually did not deny him the benefit that he is now seeking, but which left it unanswered.

2. Heard Mr. G. Ravi Mohan, learned counsel for the appellant and Mr. A. Rama Rao, learned Standing Counsel for the respondent-Corporation.

3. The appellant was employed as a conductor Grade-II in the respondent-Corporation. Pursuant to the disciplinary proceedings, he was imposed with the penalty of removal from service by the proceeding dated 01.11.2000.

4. The order of the penalty was confirmed by the Departmental Appellate Authority. But the Revisional Authority held that the punishment was grossly disproportionate. Accordingly he directed reinstatement as a fresh appointment, without any benefit.

5. Challenging the denial of reinstatement with consequential benefits, the appellant filed a writ petition. The writ petition was partly allowed by the learned Judge. The operative portion of the order of the learned Judge reads as follows:

“Accordingly, the writ petition is partly allowed reviewing the order of the reviewing authority by giving continuity of service to the petitioner without any back wages whose service cannot be taken into account for the purpose of computing the increments or promotions. However, the continuity of service can be effected for the purpose of computing pension and other retirement benefits. No costs.”

6. Though the appellant has come up with the above appeal, challenging the denial of back-wages, increments and promotions, the learned counsel for the appellant submitted that the appellant should at least be granted the benefit of pay fixation.

7. The operative portion of the order of the learned Judge, denies (1) the benefit of back-wages; (2) the benefit of increments; and (3) the benefit of promotions. In view of the findings recorded by the learned Judge, we do not think that the appellant can seek any of the above, denied to him by the learned Single Judge.

8. However, there is one area where the grievance of the appellant is justified. He was imposed with the penalty of removal from service on 01.11.2000. The appellant reached the age of superannuation in the year 2013. What should be taken as the last pay drawn by the appellant, for the purpose of giving effect to the order of the learned Judge and computing his pension and terminal benefits, is left unanswered by the learned Judge. It appears that the Corporation is taking a stand that the last pay drawn as on 31.10.2000 will be taken to be the pay for determining the terminal benefits and pensionary benefits in 2013. This is not and this cannot be the purport of the order of the learned Single Judge. If during the period of 13 years from 01.11.2000 up to 2013 (the date of retirement), the post held by the appellant was in receipt of revised pay-scales, the appellant will certainly be entitled to refixation of pay as per the revised pay-scales. The order of the learned Judge deprives the appellant only of the benefit of increments and promotions and not the benefit of revised pay-scales granted to other employees from time to time.

9. Therefore, the writ appeal is disposed of clarifying that the last pay drawn by the appellant should be taken to be the one that he would have drawn had he continued up to the date of normal retirement, without the benefit of increments and promotions as ordered by the learned Judge.

10. As a sequel, miscellaneous petitions pending in this writ appeal, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J.

14th November, 2017
Js.

M. GANGA RAO, J.



HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.511 of 2006



14th November, 2017

Js.