

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.668 of 2008

ORDER:

The petitioner was initially appointed as daily wage Conductor on 24.03.1984. While he was conducting Bus bearing No.9716 on the route from Adilabad to Penganga on 13.07.1985, at about 9:00 AM., a check was exercised by the TTIs of the respondent – Corporation in between stages 4 and 5 and a charge memo was served to the petitioner. The following charges were levelled against the petitioner:

- “i) For your failure to observe the rule issue and start at stage No.4;
- ii) For having failed to collect the fare and issue ticket to a passenger found without ticket, who boarded the bus at Boraj and bound for Mandegada, Ex-stages 4 to 5/6.
- iii) For having re-issued the tickets bearing Nos.020/825172 and 173 of Rs.1/- deno, to 2 passengers boarded at Chanda X Road, stage No.2 and alighting at Gimma stage No.4/5, which were issued and accounted at stage No.1 having punched on stage No.1.
- iv) For having refused to attest passengers statement at the time of check.”

2. After conducting enquiry, the petitioner was removed from service by proceedings, dated 21.04.1986. The petitioner preferred an appeal and the said appeal was rejected on 31.08.1996 as time barred. The petitioner preferred review and the same was rejected on 06.01.1997. Thereafter, the petitioner preferred I.D.No.38 of

1997 and an Award was passed on 03.10.2000. Challenging the same, the petitioner preferred W.P.No.2936 of 2001 and this Court allowed the said Writ Petition on 11.02.2005 and remanded the matter to the Labour Court. The Labour Court after remand, passed an order on 05.02.2007 setting aside the order of removal, dated 21.04.1986, and directed reinstatement of petitioner as fresh candidate on daily wage basis, without continuity of service and without any back wages and also without attendant, monetary benefits. Pursuant to the said Award of the Labour Court, the petitioner was reinstated into service on 27.10.2007 and he retired from service on 30.11.2007. The present Writ Petition was filed challenging the Award, dated 05.02.2007.

3. The above facts clearly show that the petitioner was initially appointed on daily wage basis and within one year of service, he committed irregularity, he was removed from service after conducting enquiry on 21.04.1986. His appeal and review, which were filed after considerable delay of nine years, were rejected. Now, though the order of removal was set aside since the position at the time of removal of petitioner was that of a daily wage employee, the same position was restored and there cannot be any continuity of service in the case of daily wage employee though the order of removal was set aside. In those circumstances, the petitioner was reinstated into service as daily wage employee pursuant to the Award of the Labour Court.

4. With regard to the merits of the case, the Labour Court found in favour of the petitioner and no writ petition is filed by the respondent – Corporation. Then the only point that remains for

consideration is whether the petitioner is entitled for any benefit consequent to setting aside the order of removal. In view of position of the petitioner as daily wage employee, the Tribunal itself thought it fit to order for reinstatement as a fresh daily wage employee and such an order in the case of a daily wage employee cannot be held to be erroneous. This Court sees no ground to interfere with the said Award.

5. Accordingly, the Writ Petition is dismissed. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

NOVEMBER 28, 2017
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO



WRIT PETITION No.668 of 2008

Date: 28.11.2017

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