

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No:13599 OF 2002

ORDER:

1. This writ petition is filed by the petitioner challenging the award dated 28.12.2001 passed in I.D.No.1 of 1999 by the 1st respondent insofar as the denial to grant continuity of service, attendant benefits and backwages, are concerned.

2. The case of the petitioner is as follows:

The petitioner was appointed as a driver in the APSRTC on 16.5.1978 at Adoni Depot and thereafter, he was transferred to the 2nd respondent depot. While the petitioner was performing his duties on 10.6.1997 on route Kurnool to Bangalore, an accident took place resulting in death of one passenger. In that connection, departmental enquiry was conducted and the petitioner was dismissed vide proceedings dated 10.12.1997. The appeal and review filed by the petitioner were rejected. Hence, the petitioner raised an Industrial Dispute in ID.No.1 of 1999 before the 1st respondent. The 1st respondent passed the award reinstating the petitioner as a fresh driver and denying the continuity of service and other benefits, and further directing the 2nd respondent to defer three annual increments with cumulative effect. Aggrieved by the same, the petitioner filed this writ petition.

3. Heard and perused the material available on record.

4. Now, the short point for consideration is whether the award passed by the 1st respondent directing 2nd respondent to defer three annual increments with cumulative effect while directing the 2nd respondent to

issue fresh appointment order to the petitioner, is in accordance with law or not.

5. In similar circumstances in **Arava Masthanamma vs. Depot Manager, APSRTC, Cuddapah District¹**, this Court observed as follows:

“If it is a fresh appointment, wiping off the entire past career and benefits that had arisen therefrom, it should be viewed as a clean slate without having any blot. In that event, imposing a further punishment of deduction of four increments from a cadre where the petitioner is yet to be born is absolutely onerous and unsustainable.”

6. Considering the facts and circumstances of the case and the above referred judgment, this Court is of the view that since the Tribunal ordered reinstatement of the petitioner as a driver afresh, the imposition of punishment of deduction of three annual increments from a cadre where the petitioner has not yet born cannot be sustained. Therefore, the imposition of punishment of deduction of three increments in the fresh appointment is illegal and arbitrary and thereby, the said condition is set aside. However, it is made clear that the award of the Tribunal in respect of appointment of the petitioner afresh and denial of monetary benefits of his part service, needs no interference.

7. Accordingly, the Writ Petition is allowed to the extent indicated above. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Justice Raja Elango

Date: 13th April, 2017
Nn.

¹ 2014(3) ALT 42

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13.04.2017

Nn.