

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.26002 OF 2000

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not regularising the services of the petitioners as per the judgment of this Court in WA.No.705 of 1995 dated 24.07.1995 and without following the provisions of Section 25-B of the Industrial Disputes Act, 1947 ("the Act" for brevity), as arbitrary and illegal, and consequently, seeking a direction to regularise their services from the date of their initial appointment.

Heard Sri B.H.R.Chowdary, learned counsel for the petitioners and Sri N.Vasudeva Reddy, learned Standing Counsel for the Telangana State Road Transport Corporation.

It is contended by the counsel for the petitioners that even if the petitioners were appointed as Conductors on casual basis during the year 1991 and they had put in continuous period of service and had completed 240 days in each of the year, the respondent-Corporation had not regularised their services in the year 1995. It was further contended by the counsel for the petitioners that similarly placed persons, who were appointed during the year 1991, were all regularised from the date of their initial appointment i.e., 1991 or at least on completion of 240 days of service in the Corporation.

The respondents have filed a counter affidavit and in the said counter affidavit it was contended that the persons, who were regularised from the date of their initial appointment, were all seniors to the petitioners and as there were no clear vacancies

available at that relevant point of time, the case of the petitioners could not be considered for regularisation during the period 1991-1994 and when vacancies have arisen in the year 1995, the services of the petitioners were regularised.

Learned counsel for the petitioners has relied on the orders passed by the Division Bench of this Court in WA.No.705 of 1995 dated 24.07.1995 wherein this Court had clarified in the Writ Appeal that the initial appointment as communicated in the order of the learned Single Judge should be read as the date of continuous appointment as defined under Section 25-B of the Industrial Disputes Act.

A perusal of the orders passed by the learned Single Judge in WP.No.26279 of 1999 dated 23.12.1999 shows that the learned Single Judge of this Court had disposed of the Writ Petition by following the orders passed by the Division Bench of this Court in **A.P.S.R.T.C. v. P.R.Rao**¹ and the learned Single Judge directed the Corporation to scrutinise the cases of each of the petitioners and decide as to their entitlement for regularisation in accordance with law and in the light of the above said judgment. However, it is declared that the petitioners are entitled to regularisation of their services from the date of their initial appointment to such post on completion of 240 working days. However, if there are number of claimants seeking such regularisation, the same can be done by the respondents in a phased manner.

There is no dispute with regard to the proposal of such principle but the case of the Corporation is that there were no clear vacancies and when vacancies have arisen in the year 1995, the

¹ 1998(2) ALT 447 (D.B.)

Corporation has considered the cases of the petitioners for regularisation. There is no illegality found on the part of the Corporation in regularising the services of the petitioners and no direction can be issued to regularise their services with retrospective effect in the absence of clear vacancies. Regularisation can be ordered only if there are clear vacancies.

I do not find any merits in the Writ Petition and accordingly, it is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(ABHINAND KUMAR SHAVILI, J)

22nd November 2017
RRB

