

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.14038 of 2007

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner for the following relief:

“ Writ of Mandamus declaring the action of the respondents in treating the petitioner as casual Conductor instead of regular employee is contrary to the Proc. No.E1/255(12)/96-RMQ, dated 06.12.1996 as illegal, unjust and arbitrary as such liable to be set a side in the interest of justice and consequently direct the respondents herein to pay the arrears of differed salary w.e.f., 06.02.1996 forthwith:

2. Heard Sri S.M. Subhan, learned counsel for the petitioner and Sri Aravala Rama Rao, learned Standing Counsel for A.P. State Road Transport Corporation (Corporation), apart from perusing the material available before this Court.

3. According to the petitioner, he was appointed as a Conductor in the year 1991 and was removed from service on 20.07.1991. Subsequently, he was reinstated into service as a Casual Conductor pursuant to the orders in the appeal passed by the Regional Manager, APSRTC, Kadapa. Subsequently, on 21.04.1997, the petitioner was again removed from service in connection with the allegation of 'Cash and Ticket irregularities'. Thereafter, he filed I.D.No.120 of 1998 before the Labour Court and by Award dated 03.02.2001, the Labour Court directed the respondent-

Corporation to reinstate the petitioner with continuity of service, but without back wages. Subsequently, on 29.06.2001, again the petitioner was disengaged from service. The petitioner filed I.D.No.170 of 2002 before the Industrial Tribunal-cum-Labour Court, Anantapur, questioning the termination order dated 08.02.2002. The Tribunal passed an Award dated 17.07.2006, the operative portion of which reads as under:

“Under the above circumstances the order of the respondent herein issued on 29.06.2002 wherein disengaged the petitioner from service has to set aside and order for reinstatement of the petitioner into service with continuity of service and attendant benefits but without back wages.

In the result, the petition is allowed partly, the order of disengagement/termination issued by the respondent in his office order dated 29.06.2002 is hereby set aside. The petitioner is ordered to be reinstated into service by the respondent within one month from the date of publication of the Award. He shall be entitled for continuity of service as per office order issued by the Regional Manager on 06.12.1996 with time scale as mentioned therein with attendant benefits but without back wages. The Award is passed accordingly.”

4. While referring to the above Award dated 17.07.2006, it is the submission of the learned counsel for petitioner that the respondent-Corporation has not extended the benefits to the petitioner, which are available to a regular employee, despite Office Order dated 06.12.1996 issued by the office of the Regional Manager, Kurnool Region, de-casualising the petitioner-workman. Learned counsel for the petitioner

further submits that the impugned action of the respondent – Corporation is highly illegal, arbitrary and violative of Article 14 of the Constitution of India. He would further submit that in view of the order de-casualizing the petitioner, the petitioner is liable to be treated as a regular employee of the respondent-Corporation.

5. On the contrary, learned Standing Counsel for the respondent-Corporation submits that the petitioner herein is not entitled for the relief as prayed for in the writ petition and there is no illegality in the impugned action in view of the earlier orders passed by the Tribunal and also the earlier conduct of the petitioner.

6. There is absolutely no dispute with regard to the reality that the office of the Regional Manager, Kurnool Region, vide Office Order No.E1/255(12)/96-RM'Q', dated 06.12.1996, ordered de-casualization of the petitioner herein. It is also very much evident from the Award dated 17.07.2006 in I.D.No.170 of 2002, that the Tribunal, while setting aside the order of termination, categorically directed that the petitioner is entitled for continuity of service as per the Office Order issued by the Regional Manager on 06.12.1996 with time scale as mentioned therein with attendant benefits, but without back wages. It is also significant to note in this context that the respondent-Corporation challenged the Award dated 17.07.2006 in I.D.No.170 of 2002 by way of

filing W.P.No.5137 of 2007 and this Court, by order dated 17.09.2016, dismissed the said writ petition and a copy of which is also placed on record.

7. Since the Award dated 17.07.2006 passed by the Tribunal in I.D.No.170 of 2002 has attained finality, there is absolutely no justification on the part of the respondent-Corporation in denying the benefits to the petitioner flowing out of the said Award.

8. For the aforesaid reasons, the writ petition is allowed, directing the respondent-Corporation to act in accordance with the Award dated 17.07.2006 in I.D.No.170 of 2002 and extend all the benefits, including arrears of salary to the petitioner by duly taking into consideration the Office Order No.E1/255(12)/96-RM'Q', dated 06.12.1996, issued by the Regional Manager, Kurnool Region. No order as to costs.

9. As a sequel, Miscellaneous Petitions pending consideration, if any, in the Writ Petition shall stand closed.

JUSTICE A.V. SESA SAI

08.06.2017.
Msr

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