

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.21306 of 2013

ORDER:

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

“.....to issue a writ, order or directions more in the nature of Writ of Mandamus directing the respondents herein to refix the petitioner pay and protect his other benefits i.e., leave, service, seniority and pay arrears from the date of petitioner reinstatement (in pursuance of proceedings dated 19.10.2004) and pass such other order or orders in the interest of justice, as otherwise the petitioner may suffer irreparable loss and hardship.”

2. I have heard the submissions of Sri P.Govindarajulu, learned counsel for the petitioner and of Sri A.Ravi Babu, learned Standing Counsel for the APSRTC.

3. The Corporation after noticing certain acts of misconduct said to have been committed by the petitioner ordered for a domestic enquiry; and, after conducting the domestic enquiry, an enquiry report was submitted holding that the charges are proved. Eventually, the review petition of the petitioner was allowed in part by the reviewing authority by his orders dated 19.10.2004. The reviewing authority having taken a lenient view directed for reinstatement of the petitioner into service subject to following conditions:

“1. The appellant is reinstated into service as driver and posted to Kodada depot.

2. The period of removal and absenteeism period shall be treated as not on duty.

3. Deferment of annual increment for a period of two years with cumulative effect.

4. The appellant may be directed to Medical officer, for medical examination and he shall be appointed as driver after being declared as fit for driver job by Medical officer/APSRTC.

5. The appellant is directed to report to DM/KDD within one week from the date of receipt of the proceedings, failing which the order stands cancelled.”

4. The grievance of the petitioner is that after such orders of reinstatement with the afore-stated conditions, his pay was not re-fixed and the benefits like leave, service, seniority and payment of arrears are not extended to him. Therefore, he is before this court.

5. The case of the Corporation is that after his reinstatement into service his personal records including service register and leave records could not be traced and, therefore, needful could not be done in the matter.

6. In this regard, it is apt to refer to the letter, dated 29.11.2005, addressed by the Depot Manager, Siddipet, to the Depot Manager, Dilsukhnagar Depot, wherein it is stated verbatim as follows:

“But it is very much regretted to inform that, the personal records like P case SR and leave records of the above named are not available at this end.

It is therefore you are once again requested to arrange to verify the persons records as the above employee worked at your end and to send the same to this office if found. For further course of action at this end. If not found, arrange to send the copies of punishments, appointment, transfers etc., to build up the duplicate P case with certification please.”

7. Thus, the Corporation is admitting the fact that the original record is not traceable and hence, the duplicate record has to be constructed.

8. In that view of the matter, this Court is of the considered view that the writ petition can be disposed of with appropriate directions.

9. In the result, the Writ Petition is allowed and the respondents are directed to re-fix the pay of the petitioner pursuant to reinstatement orders passed by the reviewing authority and pay him the arrears of pay and extend to him all service benefits to which he is eligible by immediately taking steps for either tracing his original record or for reconstructing his record with the other available records at various places he has worked till date. It is also made clear that in case of absence of any relevant record and ambiguity in the matter due to non availability of record, the management shall take a view beneficial to the petitioner while doing the needful in the matter. The afore-stated exercise shall be completed within two months from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

JUSTICE M. SEETHARAMA MURTI

April 21, 2017
LMV