

HON'BLE SRI JUSTICE S. V. BHATT

Writ Petition No.26493 of 2003

ORDER:

Heard Mr. G. Ravi Mohan, for petitioner and Mr. Aravala Rama Rao, for respondents-Corporation.

2. The petitioner prays for *mandamus* declaring the action of the respondents in not regularising the services of the petitioner, from his initial appointment with effect from 23.08.1989, as illegal, unconstitutional and contrary to the service regulations of the respondents-Corporation.

3. The circumstances relevant for the disposal of the writ petition are not in dispute and the chronological reference to these events would give the answer to petitioner's prayer.

4. The petitioner was appointed as a Conductor in respondents-Corporation in the year 1986. On 13.12.1988, the petitioner was removed from service for proven misconduct. On 23.02.1989, the Corporation re-appointed the petitioner as 'fresh casual conductor'. On 17.05.1991, the petitioner was removed from service. The petitioner raised industrial dispute in ID No.49 of 1992 and on 06.03.1993, the award was passed reinstating the petitioner again as a 'fresh conductor'. The petitioner filed WP No.32116 of 1998. The order dated 14.12.1999 in WP No.32116 of 1998, reads thus:

"....When the Labour Court has arrived at such a finding, it is not proper and just in not awarding re-instatement with continuity of service. In fact the Labour Court without considering the claim of the petitioner while imposing the punishment simply ordered to appoint the petitioner as a fresh candidate. In the circumstances and on the findings arrived at by

the Labour Court, the punishment sustained by the Labour court is not proper and just. Even assuming that there is misconduct, the same was in respect of a sum of Rs.3/- and the punishment of removal or even depriving the past service is not proper and just.

In the above circumstances the order of the Labour Court is modified directing the respondents to reinstate the petitioner with continuity of service, but without back wages and other attendant benefits.”

5. The respondents-Corporation, aggrieved by the order in WP No.32116 of 1998, filed writ appeal i.e., WA No.153 of 2000. The Corporation issued proceedings No.E1/L2/785(1)/99 RM(T) dated 11.09.2000, which reads as follows:

“.....In view of the High court orders, it is hereby ordered that Sri M.R. Naidu, E:501958 Conductor of Chittoor-2 Depot be decasualised and appointed with probationary rights with effect from 01.08.1990 with continuity of service but without back wages and without other attendant benefits.”

6. Hence, the writ petition, complaining that the petitioner is entitled for regularising his services with effect from 23.08.1989, the date on which, the petitioner was reappointed as ‘fresh casual conductor’.

7. The respondents-Corporation filed counter-affidavit stating that the regularisation order now issued is legal and tenable, as the Corporation has excluded 240 days from 23.02.1989 and thereafter, regularised the services of the petitioner with effect from 01.08.1990. In other words, the prayer for regularisation is accepted on the premise that the petitioner has put in 240 days and that the regularisation cannot date back to the initial reappointment of the petitioner as a fresh casual conductor on 23.02.1989.

8. I have perused the orders referred to above and also the stand of the Corporation in the counter-affidavit. The regularisation is undertaken and completed pursuant to the orders of this court in WP No.32116 of 1998. The basis on which the regularisation has been carried out is that the petitioner has continuously completed 240 days of service and therefore, entitled for regularisation. This court is of the view that exclusion of 240 days cannot and could not be faulted and further for the purpose of fixing the date for regularisation as 23.08.1989, the writ petition is also not maintainable for all the prayers relating to the termination, reinstatement etc. have been decided in WP No.32116 of 1998 along with WA No.153 of 2000. Therefore, I do not see any illegal or irregularity in the communication dated 11.09.2000 regularising the services of the petitioner with effect from 01.08.1990.

9. The writ petition fails and accordingly, dismissed. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

Date: 23.03.2017
BSS

S.V.BHATT, J

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