

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No.150 OF 2017

Dated:11.07.2017

Between:

N. Rajaiah, S/o. Mallaiah, Aged
about 49 years, Attender, O/o. Commissioner,
Bhongir Municipality, Nalgonda District,
R/o.2-1-9, Kummariwada, Harizan Basthi,
Bhongir, Nalgonda District

.. Petitioner

And

Government of A.P., rep., by its Principal
Secretary, Municipal Administration and
Urban Secretariat, Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION (TR) No.150 OF 2017****ORDER:**

Petitioner was appointed as N.M.R. Bill Collector in Bhongir Municipality and later absorbed as Public Health Worker on 18.08.1987. He was converted/promoted as Attender in Bhongir Municipality from 16.02.1999. He claims that he is eligible for promotion as Bill Collector. Though he was eligible and a vacancy was available, instead of granting promotion to the petitioner, the said post was filled up by regularizing the services of the 4th respondent. Petitioner therefore challenges the order of regularization granted to the 4th respondent as Bill Collector in O.A.No.9898 of 2012 filed before the Andhra Pradesh Administrative Tribunal, Hyderabad, which is now transferred to this Court.

2. The averments of O.A., filed before the Tribunal would disclose that according to petitioner, the 4th respondent was appointed as NMR by proceedings dated 02.09.2000 and therefore he was not eligible for regularization of services in accordance with the scheme of regularization formulated by the Government and notified by G.O.Ms.No.212, dated 22.04.1994. The said scheme envisages completion of five years of service by 25.11.1993, as the basic requirement for regularization, whereas the proceedings dated 02.09.2000 would disclose that the 4th respondent was appointed only on that date. The copy of said proceeding is enclosed at page No.15 of the O.A. paper book.

3. A bare perusal of the proceedings dated 02.09.2000 would disclose that it is passed consequent to award passed by the Labour Court. Learned counsel for the petitioner is emphasizing that the order would disclose that the 4th respondent was denied back wages and continuity of back service and therefore he has to be treated as appointed for the first time only on 02.09.2000. To appreciate this contention, the record of Municipality along with the award passed by the Labour Court in I.A.No.154 of 1997 is called and the Municipal Commissioner was directed to appear along with the record. The Commissioner is present and the copy of the award is produced, which would disclose that the 4th respondent was appointed on 01.02.1988 and his services were terminated on 13.08.1993. The same was challenged before the Labour Court. The Labour Court by award dated 18.06.1999 set aside the termination order and directed the respondent – Municipality to reinstate the petitioner therein into service with continuity of service, but without back wages.

4. It is thus clear that initial appointment of the 4th respondent was on 01.02.1988 and therefore he had completed five years of service as on 25.11.1993 and the Labour Court granted continuity of service and therefore as per the award, the entire service from 01.02.1988 counts for all benefits. Merely because the Municipality extracted some undertaking against the 4th respondent claiming continuation of back service, the fruits of award granted to him cannot be deprived once his termination is set aside and continuation of service was granted by the Labour Court.

5. Thus, regularization granted to the 4th respondent in accordance with the scheme of regularization notified vide G.O.Ms.No.212, dated 22.04.1994, cannot be faulted. Further, the Court is also informed that the petitioner was promoted as Bill Collector on 01.11.2013.

6. I see no merit in the Writ Petition (TR) and the same is liable to be dismissed. The Writ Petition (TR) accordingly is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in the Writ Petition (TR) shall stand closed.

Date:11.07.2017

KH

P. NAVEEN RAO, J

