

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.5628 OF 2010

DATED : 25.01.2017

Between :

M.A.Razak S/o.Abdul Kareem,
Aged 58 yrs, Occu : Driver, APSRTC,
R/o.16-7-305, 5th Lane, Malakpet,
Hyderabad.

Petitioner

And

The Depot Manager,
A.P.S.R.T.C, Hyderabad-II Depot,
Dilsuknagar, Hyderabad.

Respondent



This court made the following :

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ORDER :

Petitioner joined as driver in the respondent-Corporation in the year 1971. The disciplinary proceedings initiated against the petitioner ended in removal from service in the year 1984. Against the order of removal, petitioner raised industrial dispute in I.D.No.42/1993 before the Labour Court-I, A.P., Hyderabad. The Labour Court by Award dated 23.08.1993 directed reinstatement of the petitioner without back wages and without continuity of service. Accordingly, by order dated 28.12.1993, petitioner was reinstated and was continued in service, till he attained the age of super annuation. On reinstatement, petitioner's pay was fixed at Rs.4855/- per month. This writ petition is filed to direct the respondent to initiate immediate proceedings to revise the basic pay as per the entitlement of the petitioner with effect from 20.12.1993 and to pay arrears due and payable thereon.

2. Heard learned counsel for the petitioner and learned Standing counsel for the respondent-Corporation.

3. Learned counsel for the petitioner contends that though the Labour Court has not granted continuity of service, the employer granted continuity of service and therefore while fixing the pay of the petitioner, the previous service is also required to be computed and if the previous service is also computed on the date of joining service, petitioner was entitled to be given pay of Rs.8,785/- per month. Whereas, erroneously, wrong pay was fixed at Rs.4,855/-

per month. She further submits that even though several representations were made, the same are not considered causing lot of hardship and suffering to the petitioner compelling to invoke the jurisdiction of this Court.

4. Learned Standing counsel submits that petitioner was not granted continuity of service by the Labour Court. Aggrieved by the order of Labour Court denying back wages and continuity of service, petitioner filed W.P.No.2019 of 1994. The said writ petition was dismissed by order dated 22.04.1997. He therefore, submits that continuity of service has become final. He further submits that in compliance with the direction of the Labour Court, the Divisional Manager, Ranga Reddy Region, passed orders on 08.12.1993 directing reinstatement of the petitioner. Thereafter, the Depot Manager, passed orders on 28.12.1993. Petitioner taking advantage of the typographical mistake in the first portion of the order claiming continuity of service, as if the employer has granted. He also submits that writ petition has to be dismissed on the ground of delay in invoking the jurisdiction of this Court as the issue is relating to the year 1993.

5. It is not in dispute that the Labour Court has denied back wages and continuity of service and the Award of the Labour Court, has become final, since the writ petition filed by the petitioner was dismissed. It is also not in dispute that the pay was fixed in the year 1993 ignoring the past service by duly observing the direction of the Labour Court. Petitioner never protested against the said fixation. The issue relates to the year 1993 and writ petition is filed in 2010. Merely because petitioner submits

representations does not save the delay and latches in invoking the jurisdiction of this Court. On the ground of inordinate delay and latches, itself, the writ petition is liable to be dismissed.

6. It is also seen, as rightly pointed out by learned Standing counsel, that in the first limb of the order of Depot Manager dated 28.12.1993, in the direction, there appears to be typographical mistake. It mentions, "Reinstated into service with continuity of service", whereas in the last para of the order his pay was fixed at the minimum pay of the driver at Rs.1125/-. If the continuity of service was granted by the employer, he was entitled to higher pay as applicable to the drivers working since 1971. Thus, the petitioner cannot take advantage of typographical mistake in the order, more so when petitioner is governed by the Award passed by the Labour Court as affirmed by this Court.

7. Hence, I see no merit in the claim made by the petitioner, and the writ petition is liable to be dismissed.

8. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

25th January, 2017
Rds

P.NAVEEN RAO,J