

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 14881 OF 2011

Date : 09.06.2017

Between:

The Depot Manager,
APSRTC, Nuzvid depot, Nuzvid
Krishna district

Petitioner

And

The Hon'ble Labour Court
Rep by its Presiding Officer,
Guntur and another

Respondents

The Court made the following:



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ORAL ORDER:

One Sri G Tulasi Rao (for short employee), who is working as conductor in petitioner corporation, in the course of his employment secured Bachelors degree in August 1993. As per the circular instructions of the petitioner corporation dated 15.7.1989, an employee is entitled to Graduate Increment after passing degree. Employee applied for sanction of the said increment and increment of Rs.45/- per month was sanctioned by proceedings dated 26.7.1995. Simultaneously, pay scales were revised which came into force from 1.4.1993. On coming into force of revision of pay scales, employee represented for implementation of new pay scales by applying the Graduate increment entitlement. The claim of the employee was not acceded to by the petitioner corporation. Aggrieved thereby, the Union raised dispute before the Labour Court in I.D. No. 142 of 2001. By award dated 27.9.2006 the prayer of the employee was granted by the Labour Court, which is assailed in this writ petition.

2. Heard learned counsel for petitioner corporation and Sri E.Madan Mohan Rao, learned counsel representing second respondent Union.

3. The award is challenged on the only ground that the employee did not exercise his option within the stipulated time and thus employee is not entitled to claim additional pay fixation as sought for by him in the revised pay scales and therefore, award passed by the Labour Court is erroneous.

4. By relying on the award passed by the Labour Court, learned counsel for second respondent union contends that it was only because of the lapses and delay on the part of the petitioner corporation in sanctioning incentive increment for securing degree qualification there was delay on the part of the employee in exercising option. All these aspects were considered by the Labour Court while passing the award. The grounds urged in support of the prayer in the writ

petition are not valid to nullify the award passed by the Labour Court in exercise of power of judicial review under Article 226 of the Constitution of India.

5. To appreciate the rival contentions, it is useful to extract relevant portion of the award passed by the Labour Court, which reads as under:

“The contention of the respondent is that within one month from 4.8.1995 the petitioner has to exercise his option under the altered circumstances as per circular dated 29.4.1994. In fact, I do not think that it is necessary for the petitioner to exercise his reoption. It is the duty of the management to revise his scale of pay by showing the graduate increments with effect from 1st August, 1993 by showing the next increment date as 1.10.1993. When he passed BA Degree examination in August, 1993 as per the circular, the petitioner is entitled to increments from 1.8.1993. Accordingly, the management has to re-fixation his salary with effect from 1.8.1993 in the RPS of 1.4.1994 by showing his next increment dated as 1.10.1993. Whether he exercise his re-option or not when graduate increments were sanctions it is the duty of the management to revise the pay scales of the petitioner. Apart from it the circular dated 12.7.1995 PP 56/95 shows that the Unit Officers have to supply blank option form to the concerned employee for fixation of pay in terms of the instructions. In fact, the graduate increments were not supplied to the petitioner to exercise his re-option. The petitioner is kept in darkness, in regard to the rule position. If option form is also enclosed to the sanction order the petitioner would have immediately exercised his option to come under RPS with effect from 1.10.1993. But the exercised failed to supply option form. Till June 1996, the graduate increments in fact, were not released in his favour. Hence, it may not be possible for the petitioner to immediately send his option form exercising reoption. Therefore, I hold the petitioner is justified in sending his option form beyond one month and in fact he has been making representations for re-fixation of his salary from the time he came to know about the sanction of graduate increments.”

6. It is seen from the award that on due consideration of issue involved, Labour Court with cogent reasons passed award in favour of the employee. It appears from the reading of award, delay in option exercised by employee was due to delay in granting graduation incentive increment. Neither any error of law or fact is committed by the Labour Court in passing the award. There was no error in appreciating the stand of petitioner corporation by the Labour Court warranting interference by this Court. This Court is not a Court of appeal against decisions of Labour Court. Scope of judicial review against awards passed by the Labour Courts is very limited and the case on hand do not fit into the parameters of such judicial review.

7. Further, this award was passed on 27.9.2006; notification was issued on 1.2.2007; writ petition was instituted in the year 2011 and no explanation is forthcoming for delay in filing the writ petition and why it took more than 4 years for the petitioner corporation to institute this writ petition. Even according to the averments made in the affidavit, it only deals with consultation with the counsel in the year 2011.

8. Having regard to the above findings, this Court is not inclined to interfere with the award. Writ petition is accordingly dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE:9.6.2017
TVK

P NAVEEN RAO,J



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