

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 39852 of 2017

Order:

The petitioner joined the service of the respondent-Corporation as a Mechanic on 12.02.1993 after undergoing due process of selection. He worked as such from 12.02.1993 till he was removed from service by an order dated 13.11.1999 while working in Kamareddy depot. However, challenging the order of removal, he filed I.D.No.171 of 2000 before the Labour Court-II, Hyderabad, and the Labour Court passed an award on 19.03.2013 setting aside the order of removal and protecting his period of service rendered from the date of initial appointment till the date of removal for the purpose of seniority and pensionary benefits and the period from the date of removal till the date of reinstatement was treated as 'not on duty'. Pursuant to the award of the labour Court he was reinstated into service on 13.06.2013. After reinstatement, he was promoted as Leading Hand on 14.07.2017 based on the recommendations of the Selection Committee. Thus, he was working as Leading Hand from 21.07.2017. While so, a show cause notice was issued on 25.10.2017 as to why he should not be reverted to the post of Mechanic on the ground that the promotion was made erroneously. Challenging the said show cause notice, he filed W.P.No.38142 of 2017, but the same was not entertained as it was premature, since no final order was passed. Thereafter, the petitioner submitted his explanation on 06.11.2017 stating that his seniority from the date of initial appointment should be protected. When an order was passed on 20.11.2017 by cancelling the promotion order given earlier and reverting him to the post of Mechanic, the present Writ Petition is filed.

In the impugned order it is stated that after perusing the award of the Labour Court, the audit raised an objection with regard to promotion of the petitioner. It appears that the petitioner was placed at Serial No.10 in the seniority list of Mechanics based on the initial date of appointment i.e., 12.02.1993 instead of reckoning the actual service rendered that was protected by the award of the Labour Court. In terms of Labour Court's award, the period from the date of removal from service to the date of reinstatement was treated as 'not on duty' and if that is taken into consideration he would be placed at Serial No.74 (a). Now the last candidate selected was up to Serial No.14 in the category of Mechanics. In view of the same, since the correct position of the petitioner would be at Serial No.74 (a), the petitioner is not entitled for promotion. The reasoning given by the respondents in their impugned order appears to be correct and it does not warrant any interference.

At this stage, learned counsel for the petitioner submitted that challenging the award to the extent it went against the petitioner, the petitioner filed a Writ Petition in the year 2013 and the same is pending in this Court. In view of the same, the present order would be subject to the orders that may be passed in the said pending Writ Petition which was filed challenging the portion of award that went against the petitioner.

The Writ Petition is, accordingly, dismissed subject to above observations. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 24.11.2017
Nsr