

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 21340 of 2005

ORDER:

This writ petition is filed seeking to issue a writ of *Mandamus* declaring Letter No.P3/255/2001 RM:MBNR dated 16.11.2001 issued by the respondent as illegal and set aside the same with a direction to the respondent corporation to grant special grade increment immediately after completion of 12 years from the date of initial appointment by counting continuity of service as granted by the Labour Court in I.D.No.777 of 1993 dated 13.11.1996 with all consequential benefits including pay fixation and arrears.

Heard Si P.Govinda Rajulu, learned counsel for the petitioner and Si B.Mayur Reddy, learned standing counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as a Conductor on 1.11.1987. While he was discharging his duties as conductor at Shadnagar Depot, he was removed from service during the year 1991 on the allegation of cash and ticket irregularities. Challenging the same, he filed I.D.No.777 of 1993 before the Labour court, Hyderabad. The Labour Court, vide orders dated 13.11.1996 allowed the I.D. and directed to reinstate the petitioner into service with continuity of service and attendant benefits but without back wages. Pursuant to the orders passed by the Labour Court, the petitioner was reinstated into service in the

month of February, 1997. It has been further contended by the petitioner that he had completed 12 years of service from the date of his initial appointment during the year 1999 and accordingly he submitted a representation to grant 12 years stagnation increment but the respondent corporation had considered his case and rejected the same vide proceedings dated 16.11.2001 citing the circular dated 11.7.1990. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner had contended that the circular dated 11.7.1990 relied upon by the respondent corporation was already set aside by this Court in WP.No.26584 of 1996 vide orders dated 15.6.1999 and when the said circular is not in existence, the question of rejecting the case of the petitioner by citing the said circular is arbitrary and illegal. Learned counsel for the petitioner had further contended that when the Labour Court has granted continuity of service even though the petitioner is not in service physically, it should be understood that the petitioner was in service from the date he was removed from service till he was reinstated into service and for all purposes, the said period should be counted for the purpose of all consequential benefits including grant of stagnation increment after completion of 12 years of service.

Learned standing counsel for the respondent corporation had contended that since the petitioner had not worked physically during the period he was kept out of employment, the question of granting 12 years stagnation increment to the petitioner would not

arise and the writ petition is devoid of merits and the same is liable to be dismissed.

This court having considered the submissions made by both the parties is of considered view that when then Labour Court had reinstated the petitioner into service with continuity of service for all purposes, it should be understood that the petitioner was in service and he is entitled for grant of 12 years stagnation increment but the respondent corporation had rejected the case of the petitioner by quoting circular dated 11.7.1990 which was already set aside by this Court in WP.No.26584 of 1996 dated 15.6.1999.

Accordingly, the impugned Letter No.P3/255/2001 RM:MBNR dated 16.11.2001 issued by the respondent is set aside and the Writ Petition is allowed. The petitioner is entitled for grant of 12 years stagnation increment with all consequential benefits. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 03/ 10/ 2018
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