

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 24840 of 2007

ORDER:

The present writ petition is filed seeking to issue a writ of mandamus declaring the action of the 3rd respondent in issuing proceedings dated 23.05.2005 and also the action of the 2nd respondent in issuing proceedings dated 08.04.2006 insofar as denying continuity of service, attendant benefits and back wages to the petitioner, as illegal and arbitrary. A consequential direction is also sought to grant continuity of service, attendant benefits and full back wages to the petitioner.

Heard Sri G. Ravi Mohan, learned counsel for the petitioner, and Sri A. Rama Rao, learned standing counsel for APSRTC appearing on behalf of the respondents.

It is contended by the petitioner that he was appointed as Driver in the respondent corporation in the year 1999. While he was discharging his duties, he met with an accident, due to which, his right leg knee cap was fractured and though he recovered from the injury, there was pain. While so, from 02.05.2005 he could not attend the duty and he informed of the same to the respondent authorities and submitted sick certificate to them. However, on the allegation that he absented from duty, the 2nd respondent issued a show cause notice for deletion of his name from the panel list on 04.05.2005, but the same was not served on him at any point of time, and finally the 3rd

respondent issued proceedings dated 23.05.2005 deleting his name from the selection approval list of casual drivers, without conducting any enquiry and without considering the sick certificate produced by him. Aggrieved thereby, he unsuccessfully preferred an appeal and later filed a review petition before the 2nd respondent, who vide order dated 08.04.2006 reinstated him into service as a fresh casual driver. Questioning the denial of continuity of service, back wages and attendant benefits, he filed the present writ petition.

Learned counsel for the petitioner has contended that the Andhra Pradesh State Road Transport Corporation Employees (Classification, Control and Appeal) Regulations, 1967 do not envisage punishment of imposition of penalty of appointment as a fresh candidate and, therefore, the punishment imposed on the petitioner is liable to be set aside. He further submitted that a similar issue was considered by this Court in WP No.16439 of 2003 dated 12.11.2003 directing the respondents therein to reinstate the petitioner therein with continuity of service and attendant benefits and prayed that the case of the petitioner may also be considered on similar lines.

Learned standing counsel for the respondent corporation has contended that by taking a lenient view in favour of the petitioner, the reviewing authority modified the order of punishment to that of fresh appointment and, as such, no illegality is committed by the respondent corporation. Therefore, the writ petition is liable to be dismissed.

I have perused the material available on record and the order dated 12.11.2013 passed by this Court in WP No.16439 of 2003. The operative portion of the order at paragraph No.8 reads thus:

“Accordingly, this writ petition is allowed. The order of reinstatement of the petitioner as a fresh Driver is set aside. The respondent corporation is directed to reinstate the petitioner in the service with continuity of service and attendant benefits. However, the petitioner shall not be entitled to back wages during the period he was out of employment. No costs.”

Following the order dated 12.11.2013 passed by this Court in WP No.16439 of 2003, since the case of petitioner herein is also on the similar lines, the impugned order passed by the 2nd respondent herein is set aside directing the respondent corporation to reinstate the petitioner into service with continuity of service and attendant benefits. However, the petitioner shall not be entitled to back wages during the period he was out of employment.

With the above direction, the writ petition is disposed of. No costs. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

6th September, 2018
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(disposed of)

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