

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 6812 OF 2011

ORDER :

This writ petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ or order, more in the nature of Writ or Mandamus declaring the action of the respondents in regularizing the petitioner service with effect from 5-10-2007 instead of 1-5-1994 on par with the petitioner's juniors as illegal and arbitrary and set aside the same with all consequential benefits including fixation of pay and Regularization of the petitioner service on par with his juniors (Employees in office order dated 5-10-1994) and payment of arrears by counting the continuity of service granted in ID NO: 261 of 97, dated: 30-3-2001 and pass such other order or orders in the circumstances of the case as otherwise the petitioner may put irreparable loss and hardship”.

Heard Sri P.Govinda Rajulu, the learned counsel for the petitioner and Sri B.Mayur Reddy, the learned Standing Counsel for TSRTC.

It is the case of the petitioner that he was appointed as casual Driver in the respondents-corporation, by proceedings dated 17-6-1992. While he was working at Narayanpet Depot, the Depot Manager issued a charge sheet dated 10-3-1995 on the allegation that he was absented from duties unauthorizedly. The Depot Manager finally removed him from service vide proceedings dated 30-8-1995. Questioning the arbitrary action of the Depot Manager, Narayanpet, the petitioner raised an Industrial Dispute before the Labour Court-III, Hyderabad, vide I.D.No.261 of 1997 and the same was

allowed partly by Award dated 30-3-2001, setting aside the order of removal dated 30-8-1995 in Ex M-9 passed by the Respondent and directing the respondent to reinstate the petitioner into service without back wages, on the principles of "No work no pay" and treating the period from the date of removal till the date of reinstatement as suspension without pay. In pursuance of the Award dated 30-3-2001, he was reinstated into service in the month of June, 2001 as casual Driver and continuously working in the respondent's corporation. The learned Counsel for the petitioner contends that the services of the employees, who were appointed as Casual Drivers in the 2nd respondent Region were regularized by office order dated 1-5-1994 with effect from 1-5-1994, but the respondents herein, without considering his claim for regularization on par with his juniors, continued him as casual Driver without any valid reasons. The petitioner further contends that he made representations to consider his case for regularization on par with his juniors who were appointed in the month of May 1994, but the respondents herein were not considered his case for regularization and no reasons were given till today. The learned Counsel for the petitioner further submits that in pursuance of the Award of the Labour Court, the respondents herein shall count the continuity of service for all purposes including fixation of pay and regularization of his service except wages. But the respondents, without counting the continuous service, reinstated him into service as casual Labour and regularized his services by office order dated 17-10-2007 with effect from 5-10-2007 i.e., after a lapse of nearly 14 years from the date of his appointment. The action of the respondents in not regularizing his services on par with his juniors in the 2nd respondent Region is illegal, arbitrary and

the same is liable to be set aside with all consequential benefits including regularization of his service after completion of 240 days from the date of his initial appointment on par with his juniors. The learned counsel for the petitioner further submits that due to the arbitrary action of the respondents herein in not regularizing his service on par with his juniors/after completion of 240 days from the date of his initial appointment, he is drawing less salary than his juniors and his juniors who were appointed later to him are drawing more salary.

The learned counsel for the petitioner contends that the petitioner in WP No.15242 of 1997 the Hon'ble High Court directed the respondents to regularize the services of the petitioners therein from the date of their original appointment with consequential benefits from the date of regularization including difference of salary. The above said Writ Petition was disposed of on 8-7-2005 in Divisional Manager, APSRTC Vs. P.Lakshmajo Rao.

Learned Counsel, appearing for the petitioner has drawn the attention of this Court to an identical case in *A.Rajeswar vs. Managing Director, APSRTC & Ors (W.P.No.24363 of 1998, dated 1.9.1998)*, wherein this Court has considered and adjudicated the issue as to whether the casual workers are entitled for regularization on completion of 240 days, and allowed the writ petition by following the judgment reported in *APSRTC v. P.T.Rao*¹, wherein Division Bench of this Court declared that the workmen are entitled for regularization.

¹ 1998(2) ALT 47

Learned Standing Counsel appearing for the respondents contends that the case of the petitioner will be considered for regularization as and when vacancies arose and therefore, the petitioner is not entitled for regularization from the date of his initial appointment as there were no vacancies as on that date.

Having considered the submissions made by the learned Counsel on either side, this Court is of the considered view that the issue raised in the present writ petition is squarely covered by the aforesaid judgment in ***A.Rajeswar vs. Managing Director, APSRT & Ors (W.P.24363 of 1998, dated 1.9.1998)*** and therefore, this writ petition can be disposed of in terms of the said judgment.

Accordingly, the Writ Petition is disposed of in terms of the judgment rendered in W.P.No.24363 of 1998, dated 1.9.1998, directing the respondents to consider the case of the petitioner to regularize his services from the date of his initial appointment without any back wages and other monetary benefits. However, the date of his initial appointment should be considered for the purpose of fixation of pay and pensionary benefits. No costs. Miscellaneous petitions, if any, pending shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 23.11.2018

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