

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.8547 OF 2001

ORDER:

1. This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the respondents in not refixing the salary of the petitioner by giving notional increments and other benefits as per the award of the Labour Court as arbitrary and illegal, and consequently, to direct the respondents to refix the pay of the petitioner duly giving notional increments.

2. Heard Sri B.H.R. Choudary, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as a conductor in the respondent-Corporation and while he was discharging his duties, during November, 1989, he remained absent owing to ill-health and domestic problems, and the respondents construed the said absence as misconduct and initiated disciplinary proceedings against him. After conducting enquiry, the disciplinary authority removed the petitioner from service vide proceedings dated 30.7.1990, and challenging the same, the petitioner

unsuccessfully filed appeal, and thereafter, he filed I.D.No.137 of 1993 before the Labour Court under Section 2-A(2) of the Industrial Disputes Act, and the Labour Court vide order dated 30.12.1996, set aside the removal order and directed the respondent-Corporation to reinstate the petitioner into service with all benefits like continuity of service etc., but only with 25% back wages. The respondents reinstated the petitioner into service belatedly on 1.10.1997. The respondents filed W.P.No.20983/1998 challenging the award passed in I.D.No.137 of 1993 and the said writ petition was dismissed, against which, the respondent-Corporation filed appeal in WA No.1590 of 1998 and the Hon'ble Division Bench of this Court vide order dated 8.10.1998 remanded the matter to the learned single Judge. Finally, W.P.No.20983 of 1998 was dismissed on 1.9.2005.

4. The principal grievance of the petitioner is that he was reinstated into service as fresh appointee, thereby denying the continuity of service and other benefits including notional increments, and therefore, the writ petition may be allowed directing the respondents to grant notional increments with continuity of service and re-fixation of his salary.

5. The learned Standing Counsel for the respondent-Corporation contended that the petitioner is not entitled for notional increments in view of the law laid down by the Hon'ble Supreme Court in ***A.P.SRTC and another Vs. S. Narsagoud***¹, and there are no merits in this writ petition and the writ petition is liable to be dismissed. He further contended that the respondents implemented the award in its true letter and spirit, and there was no deviation on the part of the respondents.

6. This Court having considered the rival submissions made by the parties is of the view that the petitioner is not entitled for notional increments in view of the judgment of the Hon'ble Supreme Court (referred to supra). However, it is clarified that the petitioner is entitled for continuity of service and other benefits as directed by the Labour Court.

7. Accordingly, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

Dated: 12th November, 2018
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¹ (2003)2 SCC 212

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Dated: 12.11.2018

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