

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 22339 of 2002

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the 2nd respondent in issuing proceedings dated 30.07.1996 and also the action of the 1st respondent in not disposing of the representation of the petitioner, as illegal and arbitrary. A consequential direction is also sought to the respondents to give the benefit of continuity of service to the petitioner.

2. Heard Sri V. Narasimha Goud, learned counsel for the petitioner, and Sri K. Harinath, learned standing counsel for T.S.R.T.C. appearing on behalf of the respondents.

3. It has been contended by the petitioner that he was appointed as Conductor in the respondent corporation in November 1987 and his services were regularized with effect from 01.07.1989. Since then, he has been continuously working without any complaint. While he was working as such, due to domestic problems, he had tendered resignation vide application dated 01.08.1995 and the same was accepted by the respondent corporation vide orders dated 19.10.1995. Thereafter, he had withdrawn his resignation on 28.11.1995 and requested the respondent corporation to reinstate him into service. But, the 2nd respondent reinstated him into service as Conductor Grade-II afresh, in terms of Regulation-7(a&b) of Service Regulations 1963, with an observation that he is not entitled for any previous

service benefits and his services will be reckoned in the post of Conductor Grade - II from the date of reporting to duty, vide proceedings dated 30.07.1996. Challenging the same, the present writ petition is filed.

4. Learned counsel for the petitioner has contended that due to reinstatement of the petitioner afresh as a Conductor Grade-II, the petitioner became junior by eight years, and consequently, he was put to great monetary loss. He further contended that in similar circumstances, a driver, by name, Sai Baba, Employee No.303680, had also tendered resignation, and after acceptance of his resignation, the respondent corporation reinstated him into service with continuity of service. Therefore, he prayed that the same benefit may be extended to the petitioner.

5. On the other hand, learned standing counsel for the respondent corporation has contended that as per Regulation-7(a&b) of Service regulations 1963, the case of the petitioner was considered and he was reinstated into service as Conductor Grade-II afresh, vide orders dated 30.07.1996. Regulation-7(a&b) of the Service Regulations makes it clear that resignation will forfeit the earlier service. But, the petitioner has not challenged the said Regulation. As long as the said Regulation is staring at the petitioner, the relief claimed by him in this writ petition cannot be granted.

6. I have considered the rival submissions made by the party and perused the record. Admittedly, the petitioner had tendered resignation vide application dated 01.08.1995 and the same was accepted by the respondent

corporation on 19.10.1995. Thereafter, on his application for withdrawal of his resignation, on the ground that in view of unemployment and also unable to feed his family members, on humanitarian grounds the respondent corporation vide orders dated 30.07.1996 reinstated him as Conductor Grade-II afresh without any continuity of service, in terms of Regulation-7 (a&b) of Service Regulations 1963. Further, the petitioner has not challenged the Regulation-7(a&b) of Service Regulations of the respondent corporation. Therefore, I am of the considered view that no illegality or irregularity has been committed by the 2nd respondent in passing the orders of reinstatement of the petitioner afresh without any continuity of service. I find no merits in the writ petition and the same is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. Consequently, miscellaneous applications, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

11th October, 2018
cbs

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