

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 7474 of 2003

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus directing the respondents to treat the petitioner as a Conductor appointed on regular basis with effect from 1988 with all consequential benefits i.e., fixation of pay and seniority of the petitioner from the date of his initial appointment i.e., from the year 1988.

2. Heard Sri M.V. Durga Prasad, learned Counsel for the petitioner and Sri S.V. Ramana, learned Standing Counsel for the respondent-Corporation.

3. It has been contended by the petitioner that he was initially appointed as casual labour on 1.3.1988 and when his services were not regularized on par with other casual labour with effect from the date of his initial appointment, he filed W.P.No.22760 of 1994 and this Hon'ble Court was pleased to dispose of the said Writ Petition on 12.11.1996 directing the respondents to consider the case of the petitioner for appointment to the post of conductor treating him as a work charged employee of the Corporation, who worked in the Corporation from 1.3.1988 to 25.8.1989. It has been further contended by the petitioner that against the orders in

W.P.No.22760 of 1994, the respondents filed appeal in W.A. No.98 of 1997, and the Hon'ble Division Bench of this Court dismissed the said appeal on 6.2.1997, and thereafter, the services of the petitioner were taken on daily wage basis with effect from 1.8.1997 as conductor and since then, the petitioner is being continued as conductor. It has been further contended by the petitioner that the respondents have regularized the services of the petitioner vide proceedings dated 16.2.2001 with effect from 1.8.2000. The petitioner contends that the respondents ought to have regularized the services of the petitioner from the date of his initial appointment i.e., 1.3.1988 as it was done in the case of other work charged employees and that the respondents selectively denied the regularization of his services from the date of his initial appointment i.e., from 1.3.1988.

4. The learned Standing Counsel for the respondent-Corporation submits that the petitioner never worked continuously from 1.3.1888 and only in pursuance of the orders passed in W.P.No.22760 of 1994, dated 12.11.1996, the petitioner was appointed on daily wage basis vide orders dated 1.8.1997 and thereafter, the petitioner indulged in series of irregularities more importantly in cash and ticket irregularities on 24.2.1998 and on 27.2.1998 and that the respondent-Corporation imposed minor punishments, and that since the

petitioner was undergoing minor punishments and only after currency of those minor punishments, the case of the petitioner was considered for regularization with effect from 1.8.2000 and that the respondents have not committed any irregularity and that there are no merits in this writ petition. He further contended that during the pendency of this writ petition, the petitioner retired from service and therefore, the cause in this writ petition does not survive and this writ petition is liable to be dismissed on that ground also.

5. This Court has considered the rival submissions made by the parties. If it is the contention of the respondents that the petitioner had indulged in irregularities and has violated any conduct rules, they are always at liberty to deal according to the regulations. But on account of certain irregularities and punishments, the respondents have denied regularization of the petitioner from the date of initial appointment. It is not the appropriate course of action. The respondents cannot deny the regularization of the petitioner on account of certain alleged irregularities committed by the petitioner. Therefore, this Court is of the view that the petitioner is entitled for regularization of his services with effect from 1.8.1997 on which date, he was appointed on daily wage basis and he was continuously engaged.

6. Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner as regular employee with effect from 1.8.1997 instead of 1.8.2000 and extend the service benefits accordingly to the petitioner by treating him that he was regularly appointed on 1.8.1997 and by notionally fixing his retirement benefits, and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

Dated: 15th December, 2018
Nn



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



**Writ Petition No. 7474 of 2003
(disposed of)**

15th December, 2018

Nn