

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23185 OF 2007

ORDER:

This writ petition is filed seeking to declare the action of the respondents, in not counting the petitioner's continuity of service from the date of his initial appointment till date of retirement by excluding the service from the date of removal to date of Award as illegal and arbitrary and set aside the same and further direct the respondents to count the continuity of service and pay all consequential benefits by re-fixing his pay including gratuity, earned leave, provident fund and other pensionary benefits including arrears as per Devasthanams' terms and conditions with all calculation particulars.

Heard Sri P. Govinda Rajulu, learned counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the respondents.

It has been contended by the learned counsel for the petitioner that the petitioner was appointed as a "Cleaner" in the Devasthanams Transport, Tirumala Triupati Devasthanams, on 5.8.1968, and the services of the petitioner, stood transferred to A.P.S.R.T.C, and while he was discharging his duties as Cleaner with the respondents, disciplinary action was initiated for unauthorized absence during August, 1984, and the services of the petitioner were removed by the disciplinary authority on 7.8.1984. Challenging the same, the petitioner has unsuccessfully preferred an appeal and a review and thereafter filed I.D.No.114 of 1988, and the Labour Court, vide award dated 7.3.1990, dismissed the I.D filed by the petitioner. Thereafter, the petitioner filed a Writ

Petition No.7114 of 1992 and the said writ petition was disposed of by this Court on 13.9.1997, by modifying the award passed by the Labour Court, to one of reinstatement without back wages and without continuity of service. It is further contended that in pursuance of the orders passed by this Court in W.P.No.7114 of 1992, the petitioner was reinstated into service in the year 1998. Learned counsel for the petitioner further contended that during the pendency of this writ petition the petitioner has retired from service. The only issue raised in this writ petition is that the petitioner is entitled for all benefits such as gratuity, earned leave and other consequential benefits for the services rendered by him prior to removal and after reinstatement. But the respondents have denied the same. The order dated 13.9.1997, passed by this Court in W.P.No.7114 of 1992, has to be understood as the fresh date of removal till the date of reinstatement. Only that service has to be excluded for the entire service, but the respondents cannot deny the continuity of service for the service which was rendered prior to removal. The petitioner has relied upon the clarification, issued by the respondents on 11.1.2002, wherein it was clarified that in cases of reinstatement, only the out of employment period should be excluded and the rest of services rendered by the petitioner, has to be counted for the purpose of continuity of service and all the benefits to which the petitioner is entitled should be paid to the petitioner.

Learned Standing Counsel appearing for the respondents, had contended that the respondents have paid all the benefits to the petitioner by duly taking into consideration the services

rendered by the petitioner, and contends that there are no merits in the writ petition and the writ petition is liable to be dismissed.

Having considered the rival submissions made by the parties, this Court is of the considered view that if the respondents have not paid the service benefits to the petitioner for the services rendered by him in the respondent-Corporation, the respondents can be directed to pay the service benefits to the petitioner by taking into account the services rendered by the petitioner only excluding the period i.e from the date of removal till date of reinstatement.

Accordingly, the writ petition is disposed of directing the respondents to pay the service benefits to the petitioner by taking into account the services rendered by the petitioner only excluding the period i.e from the date of removal till date of reinstatement within a period of four weeks from the date of receipt of copy of this order. No order as to costs.

As a sequel to disposal of the writ petition, Miscellaneous Petitions, if any pending, shall also stand closed.

ABHINAND KUMAR SHAVILI,J

Date:28.09.2018.
Gk.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Date:28.09.2018

Gk.