

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 10889 of 2004

ORDER:

The present writ petition is filed seeking *Mandamus* declaring the action of respondent No.2 in issuing the Proceedings No.St/19(49)/1999-RM(NLR) dated 21.01.2002 denying the continuity of service and other benefits to the petitioner as illegal, arbitrary and set aside the same and consequently, to direct the respondents to grant continuity of service with attendant benefits and full back wages to the petitioner.

2. The brief facts of the case are that initially, the petitioner was appointed as Driver in the year 1987 at Kavali Depot. While he was discharging the duties as Driver at Vakadu Depot, in the year 1995 he applied sick leave from 03.06.1995 to 07.06.1995 and that after completion of the leave period, he failed to report to duty. Therefore, the respondents-corporation initiated disciplinary proceedings against the petitioner, issued charge sheet and conducted enquiry by framing certain charges against him and finally removed him from service by proceedings dated 25.11.1995. Challenging the same, the petitioner has filed an appeal before the

appellate authority, Nellore, which was rejected by order dated 16.02.1999. Aggrieved by the same, the petitioner filed a review petition before respondent No.2 and who, by impugned Proceedings dated 21.01.2002 ordered to appoint the petitioner as Driver at Vakadu Depot afresh and as such, he joined duty.

3. The grievance of the petitioner is that respondent No.2 while appointing him as a Driver afresh, did not consider his claim for granting continuity of service with all attendant benefits and back wages. Questioning the same, the present writ petition is filed.

4. Heard Sri P.Govindarajulu, learned counsel for the petitioner and Sri P.Durga Prasad, learned Standing Counsel appearing for the respondents-Corporation.

5. The learned counsel for the petitioner would contend that the Andhra Pradesh State Road Transport Corporation Employees(Classification, Control and Appeal) Regulations, 1967 do not envisage punishment of imposition of penalty of appointment as a fresh candidate and that the therefore, the punishment imposed against the petitioner is liable to be set aside. The similar issue was considered by this court in WP No.16439 of 2003 dated 12.11.2013 directing the respondent to reinstate the petitioner

therein with continuity of service and attendant benefits and that the case of the petitioner may also be considered on similar lines.

6. The learned standing counsel for the respondents-corporation contended that by taking a lenient view in favour of the petitioner, the review authorities modified the order of punishment to that of fresh appointment and as such, no illegality is committed by the respondents-corporation and hence, the impugned order is liable to be dismissed.

7. I have Perused the material available on record and the order dated 12.11.2013 passed in WP No.16439 of 2003 by this Court. The operative portion of the order at paragraph No.8 reads thus:

"8. Accordingly, this writ petition is allowed.

The order of reinstatement of the petitioner as a fresh driver is set aside. The respondents-Corporation are directed to reinstate the petitioner into service with continuity of service and attendant benefits. However, the petitioner shall not be entitled to back wages during the period he was out of employment. No costs."

8. Following the order dated 12.11.2013 passed by this Court in WP No.16439 of 2003, since the case of the petitioner herein is also on the similar lines, the impugned order passed by respondent No.2 herein is set aside directing the respondents-corporation to reinstate the petitioner into service with continuity of service and

attendant benefits. However, the petitioner shall not be entitled to back wages during the period he was out of employment.

9. With the above observations, the writ petition is disposed of. costs. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

05th September, 2018
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ABHINAND KUMAR SHAVILI, J



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