

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.29060 OF 2010

DATED : 25.01.2018

Between :

Smt. V.Indira Devi E-321115,
D/o.V.N.Swamy, Age : 42 yrs,
Working as Conductor at Godavarikhani depot,
R/o.Karimnagar, Karimnagar District & others.

.. Petitioners

And

The A.P.S.R.T.C., rep., by its Managing Director,
Musheerabad, Hyderabad & others.

.. Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioners and learned Standing counsel for the respondent-Corporation.

2. In the selections conducted to the post of conductors in the year 1999, the names of the petitioners were considered and they were selected. In pursuant thereof, petitioners were engaged as conductors on daily wage basis on various dates in the year 2000. Their services were considered as regular by order dated 01.04.2010 with effect from 05.10.2007. In this writ petition petitioners claim that their services ought to have been regularised retrospectively on completion of 240 days from the date of their initial engagement and not granting such relief is illegal.

3. According to the respondents the batch mates of the petitioners were granted regularization from 05.10.2007 only and no discrimination was shown in granting such regularization. It is further asserted that no junior or any batch mates of the petitioners were regularized from the year 2001 to 2004 on completion of 240 days.

4. On the issue of claim to grant retrospective regularization of the persons engaged as conductors on daily wage basis earlier and subsequently regularized, several writ petitions were filed before this Court and the Division Bench of this Court passed orders earlier and matters went up to the Hon'ble Supreme Court.

5. In W.A.No.705 of 1995 Division Bench of this Court passed the following order:

“Heard learned counsel for the appellants and learned counsel for the respondents.

We do not think there is any mistake in the direction issued by the learned Single Judge except that a clarification is required to reckon the date of continuous appointment and thus regularization in the post held by the petitioner-respondents from the date of continuous appointment for the purpose of both emoluments as well as seniority.

We accordingly clarify that the date of initial appointment as indicated in the order of the learned Single Judge will be read as the date of continuous appointment as defined under Section 25-B of the Industrial Disputes Act. Such continuous service of the petitioner-respondents shall be counted for all benefits in the service in accordance with law.

With the clarification as above, the appeal is dismissed.”

6. In **Divisional Manager, A.P.S.R.T.C Vs P.LAKSHMOJI RAO and others**¹, Supreme Court found fault with the directions issued by the Division Bench in W.A.No.705 of 1995. Supreme Court held that the question of granting retrospective regularization did not arise since their appointment was not against regular vacancy; it was a daily wage appointment and appointments on regular basis were made as and when vacancies were available. However, having regard to the peculiar facts of the case, Supreme Court passed the following order:

“18. In view of this peculiar situation and in order to avoid the anomalies that might otherwise ensue, while we hold that the respondent employees have failed to establish their legal right to get the status of regular employees right from the date of their initial appointment on daily-wage basis and the respective dates of regularization assigned to the respondents cannot be legally faulted, we are inclined to mould the relief in modification of the directions given in the judgments under appeal and direct as follows:

¹ (2004) 2 SCC 433=2004 (3) ALD 1 (SC)

If any of the conductors, junior to the respondents in the relevant seniority list of the concerned Division/Region, have got the benefit of seniority and regularization **OR** are entitled to get the same by virtue of the judgments that have become final, then the respondents who are seniors to them, shall be given the same benefit on the same principle.”

7. In **Regional Manager, APSRTC Vs N.SATYANARAYANA and others**², Supreme Court found fault with the subsequent decisions of this Court, misreading the directions issued by the Supreme Court in **P. LAKSHMOJI RAO**. Supreme Court found fault with the entertainment of the writ petition after long lapse of time from date of regularization granted.

8. As noticed from the decision of the Hon'ble Supreme Court extracted above, the Supreme Court found fault with entertaining of petitions for regularization from retrospective dates made belatedly. The Hon'ble Supreme Court also held that no right vests in an employee to seek regularization from anterior date.

9. It is the categorical assertion of the respondents that no junior was regularized and regularization was granted as per need and necessity of service by observing roster principle. As per the roster and requirements of employment, the services of the petitioners were regularized from 05.10.2007 and it is not possible to grant regularization retrospectively.

10. As seen from the prayer sought by the petitioners in this writ petition, petitioners do not challenge the order dated 01.04.2010, where under they were granted regularization from 05.10.2007. Whereas, the claim of the petitioners is to grant regularization, from the year 2000, soon after they completed 240 days from the

² (2008) 1 SCC 210

respective dates of initial engagement. In the absence of challenge to the proceedings, by which limited period of regularization was granted than from the initial date of appointment as claimed by the petitioners, no relief can be granted.

11. In view of the principle governing the field concerning the services of the respondent corporation, in the two decisions of Hon'ble Supreme Court referred to above and for the aforesaid reasons, the claim of the petitioners for retrospective regularization has no merit.

12. The writ petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

25th January, 2018
Rds

P.NAVEEN RAO,J

