

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.23408 OF 2018

Date: 16.07.2018

Between:

T.Gangadharam, Aged about 45 years, Conductor,
E-554653, Puttur Depot, Puttur, Chittoor District,
Andhra Pradesh.

.....Petitioner

and

Andhra Pradesh State Road Transport Corporation,
Rep.by it's the Managing Director, Vijayawada,
Krishna District and others.

..Respondents



The Court made the following:

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ORDER:

Facts as averred in the affidavit filed in support of the writ petition would disclose as under:

2. Petitioner is working as Conductor. Alleging that he was involved in cash and ticket irregularities while conducting Bus service on 02.03.2010, he was served with charge sheet dated 11.03.2010. By proceedings dated 05.07.2010, his services were terminated. In the Review petition preferred by him, the reviewing authority by proceedings dated 02.01.2011, in modification of punishment imposed by Disciplinary Authority, appointed the petitioner as Conductor afresh. Consequently, he reported to duty on 06.02.2011. Challenging the proceedings dated 02.01.2011, petitioner filed W.P.No.16020 of 2011. The said writ petition was disposed of on 14.06.2011 granting continuity of service for regularization of his services. In terms of direction issued by this Court, the services of petitioner were regularized by order dated 01.09.2012 with effect from 01.01.2010 along with his batch-mates. Petitioner now claims that his batch-mates, who were appointed as Conductors on contract basis in the years 2006 to 2009, were regularized on 01.01.2010, but while preparing the seniority list, all of them were shown as seniors to petitioner. In this writ petition, petitioner prays to declare the action of respondents 2 and 3 in not fixing the seniority and allotment of staff number on par with his batch-mates Sri Hemadri and Sri S.Ankaiah, as illegal, arbitrary and contrary to the respondent-

Corporation Service Regulations and seeks consequential directions.

3. According to learned counsel for petitioner, though reviewing authority ordered appointment of petitioner as fresh Conductor in view of directions issued by this Court in WP No.16020 of 2011, holding that petitioner is entitled to benefit of continuity of service between the date of termination and the date of re-engagement, petitioner is entitled to treat him on par with his batch-mates and others who were granted regularization w.e.f. 01.01.2010 and based on his initial entry into service, he should be granted appropriate seniority.

4. As averred by petitioner in the affidavit filed in support of writ petition, the Conductors, whose services were regularized w.e.f. 01.01.2010 were not involved in any disciplinary action. On the contrary, petitioner was terminated from service on misconduct, which order was reviewed and was treated as fresh Conductor by order of the reviewing authority dated 02.01.2011. Petitioner was not exonerated of the charge leveled against him. In the writ petitioner challenging the said decision, this Court ordered for grant of continuity of service between the date of termination and the date of re-engagement only for regularization in 'existing or future vacancy' and that petitioner would not be entitled to monetary or other benefits. Thus, this Court has not granted the claim of seniority on par with his batch-mates.

5. Assuming that petitioner can take advantage of directions issued in WP No.16020 of 2011 to claim seniority also, it is appropriate to note, that as admitted by petitioner in his

representation dated 06.10.2017, seniority list of Conductors in Depot and Regional Level was already drawn assigning higher seniority to Conductors, who were continuously working without any break and whose services were regularized. It appears from the reading of averments made in the affidavit filed in support of writ petition that seniority was determined long ago. Petitioner has not assailed seniority assigned to them. Seniority list is not under challenge. None of the persons whose names are reflected above the petitioner are arrayed as respondents in the writ petition. If the prayer sought by the petitioner is granted certainly all those persons who are now treated as seniors to him will be affected. There is no explanation in the affidavit filed in support of writ petition as to why petitioner kept quiet so long and made representation only on 06.10.2017 claiming seniority. Even as per contents of representation and averments in this writ petition, it is apparent that distinction is made between the petitioner and other Conductors. Other conductors have been continuously working and no disciplinary action was taken against them, whereas petitioner was removed from service, which punishment was later modified, and he was inducted to service. In the facts of this case, it cannot be said that such classification is vitiated.

6. For all the afore stated reasons, there is no merit in the writ petition and is accordingly dismissed. No costs. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

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Kkm/tvk

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