

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.14847 OF 2003

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondent-Corporation in orally terminating the petitioner from service as General Operator (Casual) on 19.7.2003 without regularizing his services against existing regular vacancies of General Operator/Heavy Vehicle Driver in establishments under the control of the 2nd respondent, while continuing his juniors, as illegal, arbitrary and violative of the provisions of the Industrial Disputes Act, and consequently, to set aside the oral termination order dated 19.7.2003 and direct the respondent-Corporation to regularize the petitioner's services as General Operator/Heavy Vehicle Driver in existing regular vacancies in establishments under the control of the 2nd respondent.

2. Heard Sri G. Ramachandra Reddy, learned Counsel for the petitioner and Smt. V. Uma Devi, learned Standing Counsel for the respondent-Corporation.

3. It has been contended by the petitioner that he was appointed as General Operator on casual basis in the year 1992, and thereafter, when his services were about to be disengaged he along with another casual worker filed

W.P.No.18359 of 1993, and in the said writ petition, this Court passed interim order on 13.12.1993 to continue the petitioners therein in service, and in pursuance of the said interlocutory orders, the petitioner was continued in service, and finally, the said writ petition was disposed of on 16.10.2001 with a direction to the respondents therein to consider the case of the petitioners for regularization. It has further been contended that when the official respondents have not considered the case of the petitioner, the petitioner filed a contempt case against the official respondents, and in the contempt case, this Court directed the respondents to regularize the services of the petitioner as operator in the existing vacancy, and aggrieved by the said direction, the official respondents filed contempt appeal and in the said appeal, the order of the learned single Judge in the contempt case was reversed. It has been further contended that the petitioner was orally terminated on 19.7.2003 without any regard to the orders passed by this Court in W.P.No.18359/1993, dated 16.10.2001 and therefore, challenging the oral termination order, the present writ petition has been filed. Further, it has been contended by the petitioner that an interim direction was issued by this Court to continue the petitioner, and subsequently, the said order was made absolute.

4. The grievance of the petitioner is that the respondents have terminated the services of the petitioner with a vindictive attitude just because of the contempt case filed by the petitioner against the official respondents, and therefore, the writ petition may be allowed directing the official respondents to continue the petitioner in service by duly setting aside the oral termination order dated 19.7.2003.

5. The learned Standing Counsel for the official respondents contended that initially two persons filed W.P.No.18359/1993, which was disposed of directing the respondents therein to continue the petitioners therein in service, and to regularize their services. She further contended that since another petitioner viz., P. Srinivas was having driving licence, his case was considered and he was absorbed as a heavy vehicle driver, and since the petitioner was not having such licence and as there were no vacancies in the cadre of operators, the case of the petitioner could not be considered. Further, she contended that there were no vacancies in the cadre of operators and therefore, the respondents have passed orders on 20.6.2002 informing the petitioner that as and when permanent vacancy arises in the cadre of operator, the case of the petitioner will be considered and thus, they have discontinued the services of the petitioner, and that the petitioner was never orally terminated as contended by the

petitioner and that there are no merits in the writ petition and therefore, the same is liable to be dismissed.

6. Having considered the submissions made by the parties, this Court is of the view that this writ petition can be disposed of directing the official respondents to consider the case of the petitioner as and when vacancies arise in the cadre of Operator by duly giving preference and weightage to the petitioner, and pass appropriate orders.

7. Accordingly, the Writ Petition is disposed of directing the official respondents to consider the case of the petitioner as and when vacancies arise in the cadre of Operator by duly giving preference and weightage to the petitioner, and pass appropriate orders, in accordance with the rules. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 30.10.2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.14847 OF 2003



30.10.2018

Nn.