

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.7807 OF 2004

ORDER

This writ petition is filed seeking the following relief:

“...To issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not fixing the pay of the petitioner correctly by adding increments from the date of termination till the date of reinstatement i.e., from 15.4.1989 to April, 1995 is illegal, arbitrary, unjust and contrary to the circular issued by the Corporation dt. 8.9.92 and consequently direct the respondents to fix the pay of the petitioner by adding increments and pay the same to the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.”

When the matter is taken up for hearing, it is noticed that the petitioner has attained the age of superannuation.

Learned counsel appearing for the petitioner submits that though the Labour Court gave a finding that the order of removal is not justified, in all fairness, it ought to have granted notional increments and that appropriate orders be passed directing the respondent-Corporation to grant notional increments.

Learned Standing Counsel appearing for the respondent-Corporation contends that the Labour Court has rightly passed the Award reinstating the petitioner into service with 30% back wages and with continuity of service by setting aside the order of removal; that there was no specific direction

by the Labour Court to grant notional increments and that in view of the judgment of the Apex Court in *APSRTC and another vs. S.Narsagoud*<sup>1</sup>, the petitioner is not entitled for notional increments.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that unless and until a grave irregularity or illegality has been pointed out by the petitioner, this Court cannot interfere with the Award passed by the Labour Court. The Labour Court has rightly passed the Award by setting aside the removal order. In view of the judgment of the Apex Court in *APSRTC and another vs. S.Narsagoud* supra, this Court is not inclined to grant notional increments. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE ABHINAND KUMAR SHAVILI

24<sup>th</sup> December, 2018  
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<sup>1</sup> (2003) 2 SCC 212

