

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13206 of 2013

ORDER:

The writ petition is filed with the following prayer:

“... the Hon'ble Court may be pleased to call for the records from the respondents and issue an appropriate writ order or direction more particularly one in the nature of Writ of Mandamus declaring that the order of the 2nd respondent in proceedings PA/19(02)/2009 RM KRMR, dated 20-06-2009 in so far as denying the continuity of service, attendant benefits and backwages to the petitioner as illegal, unjust, contrary to law perverse, amounts victimization and violative of Article 14 and 21 of the Constitution of India and consequently grant the relief of continuity of service with attendant benefits and backwages to the petitioner.”

2. Heard Mr. G. Praveen Kumar, learned counsel for the petitioner and Mr. A. Ravi Babu, learned standing counsel for the respondents.

3. Petitioner contends that he was initially appointed as driver during February 1989 with the respondents and since then he has been discharging duties to the satisfaction of the superiors and everyone concerned. The petitioner submits that while discharging his duty, during March 2008, the bus, which the petitioner was driving, met with an accident and the said conduct of the petitioner was considered as misconduct by the disciplinary authority and the disciplinary authority had initiated disciplinary proceedings and after conducting detailed enquiry, has imposed punishment of removal from service vide order dated 30.10.2008. Thereafter, the petitioner has preferred an appeal to the appellate authority and the same was rejected vide order dated 31.01.2009. Against the same, the petitioner

preferred a review before the reviewing authority and the reviewing authority was pleased to modify the punishment of removal to that of reinstatement afresh vide order dated 20.06.2009. Thereafter, the petitioner has preferred a mercy petition on 22.04.2011 requesting to consider the earlier service rendered by the petitioner for the purpose of continuity of service and other attendant benefits, but the same was not considered.

4. The counsel for the petitioner submits that the petitioner has rendered 30 years of service and he has retired from service on attaining the age of superannuation in 2015, during the pendency of the writ petition. Therefore, the counsel for the petitioner submits that appropriate orders be passed in the writ petition directing the respondents to at least grant continuity of service for the purpose of pensionary benefits, as the petitioner has retired from service.

5. Learned standing counsel, appearing for the respondents, contended that the disciplinary authority had imposed punishment of removal from service for the proven misconduct in the enquiry and the appeal preferred by the petitioner was considered on merits and rejected. The reviewing authority, on humanitarian grounds, had modified the punishment of removal from service to that of reinstatement afresh. However, if the petitioner submits a representation to the authorities, the respondents would consider the same and pass appropriate orders in accordance with law.

6. This Court, having considered the rival submissions made by both parties, is of the view that ends of justice would be met if the

petitioner is given the benefit of continuity of service only for the purpose of pensionary benefits. Hence, the writ petition can be disposed of permitting the petitioner to submit a fresh representation to the respondents, within a period of two (2) weeks from the date of receipt of a copy of the order, seeking continuity of service only for the purpose of pensionary benefits and the respondents are directed to consider the case of the petitioner, by duly taking into account the fact that the misconduct by the petitioner was the solitary incident in his entire career, and pass appropriate orders within a period of four (4) weeks thereafter.

With the above observations, the writ petition is disposed of. Pending miscellaneous petitions shall stand closed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

July 19, 2019
DSK

