

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.22293 OF 2006

ORDER:

This writ petition is filed seeking to declare the proceedings of respondent No.2 in No.AMP/785 (WP08)/05-RM: ADB dated 27.10.2005, rejecting the case of the petitioner for regularization of his services from initial date of appointment i.e., 06.04.1991 or from 01.10.1992, on which date juniors to the petitioner were regularized, as arbitrary and illegal.

2. It is the case of the petitioner that he was called for interview by the respondents Corporation against the regular vacancies for recruitment of Conductors in October, 1989 and he was selected for the post of Conductor on 15.12.1989, but appointed on daily wages on 06.04.1991. Subsequently, his services were regularized with effect from 01.08.1994 instead of 06.04.1991. The respondent Corporation issued notification on 03.04.1998 for appointment to the post of Typist and as per the said notification, the employees of Corporation will be allowed age relaxation equivalent to the period of service rendered in Corporation, but restricted to a maximum of ten years. As per the same, if any initial date of appointment is taken into consideration, the petitioner is entitled to the post of Typist, but the respondents Corporation has not taken into consideration his initial date of appointment for promotion to the post of Typist and rejected his case. Aggrieved by the same, he filed W.P.No.17098 of 1998. This Court by order dated 04.04.2005, allowed the said writ petition in terms of orders in W.A.No.705 of 1995 and directed the respondents Corporation to regularize the services of the petitioner from the date of his initial appointment.

Aggrieved by the same, the respondents Corporation filed W.A.No.1089 of 2005 and a division Bench of this Court by order dated 04.07.2005, disposed of the same with the following directions:-

“The date of regularization should be taken as 01.08.1994 on which the APSRTC regularized the services of the respondent or from the date on which his juniors were regularized in pursuance of the Apex Court order in Divisional Manager, APSRTC V. P.Lakshman Rao, whichever is earlier.

However it is made clear that this order will not stand in the way of the Corporation to consider the case of the respondent for any future promotion by taking into consideration the health condition of the respondent, if he is otherwise eligible as per the regulations. It is further made clear that this order should not be precedent in future cases.”

3. It is the further case of the petitioner that when the respondents Corporation has not complied with the said order, the petitioner made a representation dated 14.09.2005, pointing out that his juniors were given benefits by regularizing their services from their initial date of appointment, but respondent No.2, vide proceedings dated 27.10.2005, rejected the same on the ground that the said juniors are displaced employees, whereas, the petitioner was selected in the recruitment of Conductors held in Adilabad Division in the month of October, 1989 and he was not a displaced employee to compare his regularization with that of regularization of the displaced employees.

4. It is the further case of the petitioner that he filed Contempt Case No.1252 of 2005 and this Court by order dated 10.04.2006, dismissed the said Contempt Case, giving liberty to the petitioner to

challenge the said proceedings by way of separate proceedings, and hence, he filed the present writ petition.

5. The respondents Corporation filed a counter affidavit stating that the petitioner was appointed as a casual Conductor in Adilabad Region on daily wage basis with effect from 06.04.1991. Total 255 Conductors were appointed in that recruitment conducted in October, 1989 and as per the roster, the petitioner stood at 254th position. The services of all the eligible Conductors who stood from 117th position onwards have been regularized with effect from 01.08.1994 only. Subsequently, at the request made by the petitioner, he was transferred to Karimnagar region on loss of seniority. Either in the seniority list of Conductors of Adilabad Region or in the seniority list of Conductors of Karimnagar Region, no junior Conductor to the petitioner has been regularized prior to the petitioner.

6. It is further stated that the petitioner is claiming regularization of his services on par with that of the displaced employees. The displaced employees are absorbed into the service of the Corporation against the vacancies that arose due to the nationalization of routes and due to introduction of buses of the Corporation, displacing the buses of the private operators on which they had been working with them. The vacancies that arose due to the displacement of the private buses are not the cadre vacancies and they are the vacancies that arose only under the peculiar situation. Those vacancies are to be filled by the displaced employees only since they had been working with the private operators. While absorbing the displaced employees, no roster is

maintained and no reservations have been followed. The eligible displaced employees who could establish their employment on the private bus for a minimum period of one year were absorbed into the service of the Corporation against the vacancies created because of the displacement of their buses. The displaced employees were recruitment on daily wage basis pending verification of their antecedents and certificates and after verification, they are absorbed against the vacancies created due to the displacement of their buses. The petitioner was appointed on daily wage basis against peak season requirements only and not against any sanctioned vacancy and he cannot compare himself with the displaced employees. The displaced employees can not be called as juniors to the petitioner since they had been working with the operators prior to their recruitment in the Corporation.

7. Heard.

8. The learned counsel appearing for the petitioner submits that the petitioner was appointed on daily wages as conductor on 06.04.1991 and his services were regularized on 01.08.1994 instead of 06.01.1991. The respondents Corporation issued notification on 03.04.1989 for appointment to the post of Typists and as per the said notification, the employees of the Corporation will be allowed age relaxation equivalent to the period of service rendered in corporation, but restricted to a maximum of 10 years. If the initial date of appointment of the petitioner is taken into consideration, he will be entitled to the post of Typist. The services of his juniors were regularized on 01.10.1992. He further submits that the action of respondents Corporation is illegal and therefore,

prayed to allow the writ petition. In support of his arguments, he relied on a decision reported in **DIVISIONAL MANAGER, APSRTC V. P.LAKSHMOJI RAO**¹.

9. A perusal of the record reveals that the petitioner was initially appointed as a causal conductor in Adilabad Region on daily wage basis with effect from 06.04.1991 and his services were regularized with effect from 01.08.1994. Subsequently, at the request of the petitioner, he was transferred to Karimnagar Region on loss of seniority vide orders of the Divisional Manager, dated 06.06.1994. The services of the candidates who were appointed for the post of Conductor from displaced employees, vide order dated 19.01.1992 were regularized with effect from 01.10.1992. The contention of the petitioner that the services of his juniors were regularized with effect from 01.10.1992 cannot be accepted on the ground that the petitioner was transferred to Karimnagar Region on loss of seniority on 06.06.1994 itself and therefore, he cannot claim seniority over the employees already in service in Karimnagar Region. The vacancies that arose due to the displacement of the private buses are not the cadre vacancies and they are the vacancies that arose only under peculiar situation. Those vacancies are to be filled by the displaced employees only since they had been working with the private operators.

10. In **P.Lakshmoji Rao's** case (supra), the Apex Court held as follows:

“In view of the 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

¹ (2004) 2 scc 433

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:-

*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”*

11. In the above decision, the Apex Court observed that if any of the Conductors junior to the respondents (in that case) in the relevant seniority list of the concerned Division/Region, have got the benefit of the seniority and regularization are entitled to get the same benefit. In the present case on hand, the petitioner was appointed on 06.04.1991 on daily wages as Conductor in Adilabad Region and he was transferred to Karimnagar Region on loss of seniority on 06.06.1994 and his services were regularized on 01.08.1994. The displaced employees were appointed on 19.01.1992. Therefore, he cannot claim seniority over the employees already in service in Karimnagar Region. The facts in the decision relied on by the petitioner and the facts in the present case on hand are different and distinct and therefore, the said decision is not applicable to the facts of the present case. There is no violation of Article 14 of the Constitution of India. Therefore, the petitioner is not entitled for any relief. The writ petition is devoid of merits and accordingly, the same is liable to be dismissed.

12. In view of the above discussion, the writ petition is dismissed. As a sequel, the miscellaneous petitions, pending if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 14.02.2020
Shr

