

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

WEDNESDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION NO: 6349 OF 2013

Between:

B.V.B.Chary, S/o B.Rangaiah, Aged about 43 years, Occ ; Shramik, R/o.H.No.10-6-147-6/3, Near DRDA Office, Burhanpur, Khammam - 507001.

.....PETITIONER

AND

1. Regional Manager, APSRTC., Khammam Region, Khammam.
2. Depot Manager, APSRTC., Khammam Depot, Khammam.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of respondents in not granting other attendant benefits including annual grade increments and fixation of pay to the petitioner in the post of Shramik from the date of removal i.e. 17-03-2003 to 09-05-2007 as wholly illegal, arbitrary and unjustified, and consequently direct the respondents (i) to release all other attendant benefits from the date of removal to the date of reinstatement i.e. from 17-03-2003 to 09-05-2007 (ii) release the annual grade increments for the years 2003 to 2006 (iii) consequently fix the pay of petitioner in the post of Shramik and (iv) pay the arrears together with simple interest or 12% p.a. thereof.

I.A.NO:1 OF 2013(WPMP. NO: 7929 OF 2013)

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to fix the pay of petitioner in the post of Sharmik after releasing the annual grade increments forthwith pending disposal of the writ petition.

Counsel for the Petitioner : Sri Vanam Vishwanatham

**Counsel for the Respondents : Sri Krishna Karthik, Adv for
Sri Gaddam Srinivas (SC FOR TSRTC)**

The Court made the following Order :-

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION No.6349 of 2013

ORDER:

This Writ Petition is filed aggrieved by the action of the respondents in not granting attendant benefits including annual grade increments and fixation of pay to the petitioner in the post of Shramik from the date of removal i.e. 17.03.2003 to 09.05.2007.

2. The brief facts of the case are that the petitioner was joined as cleaner on daily wages and subsequently, the services of the petitioner was regularized as cleaner with effect from 01.01.1999 vide letter.No.E3/255(2)/99BCM, dated 05.03.1999 issued by the Depot Manager, Bhadrachalam. Thereafter, vide order dated 07.08.2002, the Depot Manager, Bhadrachalam suspended the petitioner on the allegation that there was shortage of 1820 kgs of material, which amounts to misconduct as per Regulation NO.28 (IX)(a) of A.P.S.R.T.C. Employees (Conduct) Regulations 1963 and also framed four charges against him by the second respondent vide letter dated 07.08.2002.

3. It is further submitted that after conducting enquiry, the petitioner was removed from service by order dated 17.03.2003. The appeal and review petitions filed by the petitioner were rejected on 24.06.2003 and 14.11.2003 respectively. Aggrieved by the removal order dated, 17.03.2003, the petitioner filed I.D.No.52 of 2004 on the file of Industrial Tribunal-cum-Labour Court, Warangal (for short "the Tribunal"). Vide order, dated 05.12.2006, the Tribunal has set aside the removal order and directed the respondent-Management to reinstate the petitioner into service with continuity of service, but without back wages and other attendant benefits.

4. It is further submitted that after reinstatement into service as Shramik, the petitioner challenged the award passed in ID.No.52 of 2004 before this Court in WP.No.1955 of 2009. This Court has allowed the said writ petition vide order dated 28.04.2011 and directed the respondent-Corporation to pay fifty percent of back wages to the petitioner from the date of termination i.e. 17.03.2003 to the date of reinstatement i.e. on 09.05.2007. Aggrieved by the

same, the respondent-Corporation preferred W.A.No.1315 of 2001 and the same was allowed by Division Bench by order dated 28.12.2011 modifying the order of learned Single Judge directing the respondent-Corporation to pay 25% of the back wages instead of 50% of the back wages to the petitioner from the date of termination till the date of reinstatement. Now, the petitioner filed the present writ petition for not granting attendant benefits and not releasing the annual increments from 2003 to 2006.

5. Heard both sides. Perused the record.

6. Learned counsel appearing for the petitioner contends that the prayer sought in WP.No.1955 of 2009 was to direct the second respondent therein to grant back wages and other attendant benefits from the date of removal to the date of reinstatement and the said writ petition was allowed by granting 50% of the back wages. Therefore, he submits that since the writ petition was allowed, it is to be construed that the other attendant benefits were deemed to have been granted. It is further contended that in Writ Appeal No.1315 of 2011, dated 28.12.2011, this Court except

reducing the back wages from 50% to 25%, rest of the order passed by the learned Single Judge in WP.No.1955 of 2009 has not been disturbed. Therefore, the petitioner is entitled for other attendant benefits from the date of removal to the date of reinstatement and consequently, his pay has to be refixed taking into consideration of annual grade increments from 2003 to 2006.

7. On the other hand, learned counsel appearing for the respondents contends that the order of the Tribunal in ID.No.52 of 2004 and the order of WP.No.1955 of 2009, dated 28.04.2011 and the order in WA.No.1315 of 2011 dated 28.12.2011 do not disclose the grant of attendant benefits in favour of the petitioner. Hence, the question of granting attendant benefits at this stage does not arise. He further contended that the petitioner is debarred from raising plea of attendant benefits, as the same was denied by this Court in the earlier orders stated supra. It is further contended that as per the orders dated 28.12.2011 passed in WA.No.1315 of 2011, 25% of the back wages have been

calculated to Rs.40,278/- and the same were paid to the petitioner.

8. This Court has taken note of the submissions made by both the Counsel.

09. A perusal of the order dated 28.04.2011 in WP.No.1955 of 2009 discloses that though the petitioner challenged the award passed in ID.No.52 of 2004 for denial of back wages and other attendant benefits from the date of removal to the date of reinstatement, the said writ petition was allowed directing the "respondent-Corporation to pay fifty percent of the back wages to the petitioner from the date of termination i.e. 17.03.2003 till the date of reinstatement on 09.05.2007". In the appeal filed by the respondent-Corporation against the said order in W.A.No.1315 of 2011, the Division Bench of this Court modified the same directing the respondent-Corporation to pay 25% of the back wages instead of 50% of the back wages to the petitioner from the date of termination till the date of reinstatement.

10. Therefore, having regard to the aforesaid discussion, this Court is of the view that when the prayer sought for by the petitioner with regard to grant of the other attendant benefits was denied by the learned single judge in WPNo.1955 of 2009 and by Division Bench of this Court in WA.No.1815 of 2011 and as the said order has become final, now the petitioner is estopped from raising the plea of other attendant benefits from the date of removal till the date of reinstatement.

12. In view of the same, I see no merits in the writ petition and the same is liable to be dismissed.

12. Accordingly, the writ petition is dismissed. Miscellaneous applications, if any, pending in this writ petition, shall stand closed. No costs.

SD/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. One CC to Sri Vanam Vishwanatham, Advocate [OPUC]
2. One CC to Sri Gaddam Srinivas (SC FOR TSRTC) [OPUC]
3. Two CD Copies

SA
GJP

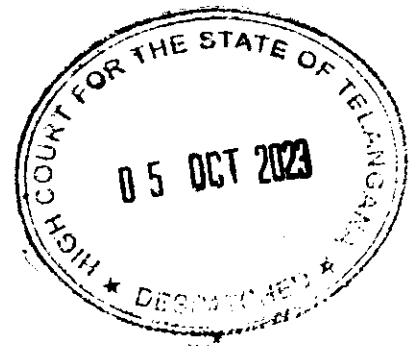
Pme.

HIGH COURT

DATED:23/08/2023

ORDER

WP.No.6349 of 2013



**DISMISSING THE W.P
WITHOUT COSTS.**

⑤ pme
28/9/23