

HONOURABLE SRI JUSTICE N.V.SHRAVAN KUMAR

IA No.1 of 2022

IN/AND

WRIT PETITION No. 3639 OF 2016

ORDER:

This writ petition has been filed seeking to “Writ of Certiorari calling for records relating to MP No.1 of 2009 dated 06.12.2013 on the file of the Labour Court-II, Hyderabad and quash the same as arbitrary illegal and without jurisdiction”.

2. Today when the matter was taken up for hearing, Sri Thoom Srinivas, learned standing counsel for TSRTC appearing for petitioners submits that Labour Court-II, Hyderabad, passed the following order in MP No.1/2009 dated 06.12.2013, reads as under:

“The learned law officer submitted that the same days were treated as leave and wages were already paid. Now, it is necessary that the respondent corporation to re-credit all the leaves to the petitioner’s account and by treating him on duty is entitled for the increment that was stopped on 01/07/97 and after giving the said increment as there were pay revisions the entire pay scale of the petitioner has to be refixed from 01/07/1997 and petitioner shall be paid the difference of amounts. The petitioner is clearly entitled for the same. To quantify the amount unless refixation was done by the respondent it would be difficult and therefore it would be more proper to dispose of this petition with the following directions:

In the result, petitioner's absence from 03/07/1996 onwards (to be treated as 'ON DUTY' and the leaves that were adjusted are to be re-credited. Secondly, petitioner shall be granted increment due on 01/ 07/1997 and his pay has to be refixed periodically after revision pay scales and petitioner is entitled for the difference of amounts. With these observations, the M.P. is disposed of.”

3. Aggrieved by the said order passed in MP No.1 of 2009, dated 06.12.2013 on the file of the Labour Court-II, Hyderabad, the present writ petition is filed.

4. Learned Standing Counsel for TSRTC further submits that this Court on 03.03.2016 passed the following interim order in WPMP No.4651 of 2016, which reads under:

“There shall be interim stay of all further proceedings in MP No.1 of 2009 on the file of Labour Court-II, Hyderabad, subject to the petitioners paying Rs.1,30,000/- (Rupees one Lakh Thirty Thousand only) within a period of six (6) weeks from the date of receipt of a copy of this order.”

5. Sri V.Narasimha Goud, learned counsel for the respondent submits that Labour Court has rightly passed the order in MP No.1/2009, dated 06.12.2013 and submits that IA No.1 of 2022 is filed to vacate the interim order dated 03.03.2016 passed in WPMP No.4651 of 2016 and pray this Court to vacate the interim order dated 03.03.2016 and dismiss the writ petition.

6. Learned counsel for the respondent further submits that in similar circumstances, this Hon'ble Court on 04.11.2003 in *Sk.Moulana V. Depot Manager, APSRTC, Banswada Depot, Nizambad District and other*¹, passed the following order:

¹ 2004(1)ALD 445

“In the light of the foregoing discussion, coupled with the precedents, this Court has no hesitation to hold that the petitioner was in service at the relevant point of time, i.e., on the date when the accident took place and accordingly he is entitled to the benefits provided for under Section 47 of the Act.

Accordingly, the writ petition is allowed and the impugned order dated 17.4.1998 is hereby set aside and the respondents are directed to strictly adhere to Section 47 of the Act and provide alternative employment to which he is suitable. The exercise shall be done within a period of two months from the date of receipt of a copy of this order. It is made clear that the petitioner is entitled to all consequential benefits to which he is entitled as per law.

7. Heard both side.
8. In view of the submission made by both the learned counsel on either side, upon perusing the material on record and the fact that in similar circumstances, this Court allowed the writ petition in Sk. Moulana V. Depot Manager, APSRTC, Banswada Depot, Nizambad District and other (cited supra), wherein the petitioner therein was in service at the relevant point of time i.e., on the date when the accident took place and the petitioner herein was also in service during the relevant point of time i.e., on the date when the accident took place; in view of the same alike reasons, this Court deems it fit to confirm the order passed in MP No.1 of 2009, dated 06.12.2013, on the file of the Labour Court-II, Hyderabad.

9. Accordingly, this writ petition is dismissed and IA No.1 of 2022 (Vacate Petition) is allowed and the interim order dated 03.03.2016 passed in WPMP No.4651 of 2016 is vacated; directing the petitioners-TSRTC Authorities to pay all benefits to which respondent is entitled as per law, if not already paid or withheld, within a period of six (6) weeks from the date of receipt of copy of this order and communicate the same to the respondent.

Miscellaneous applications, if any pending, shall stand closed.
No order as to costs.

JUSTICE N.V.SHRAVAN KUMAR

Date: 01.02.2023
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