

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No. 33250 of 2013

ORDER:

The present writ petition is filed challenging the termination order *vide* No.02/95(8)/2011-HNK, dated 05.09.2011, passed by the respondent No.3 terminating the petitioner from service, and the order dated 28.03.2013, passed by the respondent No.2 rejecting the review appeal petition filed by the petitioner.

It is the case of the petitioner that he was appointed as a Conductor on contract basis in the respondent Corporation in 2007. While the petitioner was working in Hanumakonda Depot, a charge sheet dated 28.02.2011 was issued and he was kept under put-off duty pending departmental enquiry into the charges leveled against him. Thereafter, departmental enquiry was conducted. Based on the enquiry report dated 08.08.2011, the respondent No.3 has passed the impugned order dated 05.09.2011 terminating the petitioner from service treating the put-off duty period as "Not on duty" for all purposes. The said termination order was confirmed in Appeal. Thereafter, the petitioner has filed the Review Appeal Petition and the same was

also rejected *vide* the impugned proceedings dated 28.03.2013.

Hence, the present writ petition.

Learned counsel for the petitioner has stated that this Court, under similar circumstances, has disposed of a batch of writ petitions in W.P.No.2786 of 2012 and batch *vide* common order dated 29.02.2012, by issuing the following directions:

- (1) *In cases where the appellate/revisional authority has directed re-engagement of the contract employees as fresh employees, such employees shall be entitled to benefit of continuity of service from the date of termination till the date of re-engagement, except for the period during which they were absent, and the said continuity of service granted to the employees shall be without any monetary benefit and shall be counted only for the purpose of regularization at a future date.*
- (2) *The continuity of service so ordered in para (1) shall not, however, be counted for the purpose of seniority and shall not be allowed to affect the seniority of regularly working employees or for other benefits, but shall be counted only for the purpose of considering their cases for regularization.*
- (3) *There are also cases where the orders of termination are challenged, either before the appellate/revisional authorities or before this Court, after six or seven years of date of termination. In all such cases the benefit of continuity of service without any monetary benefit and re-engagement so ordered in para (1) shall be available to only to such of those employees*

who have approached the appellate/revisional authorities or this Court within three years from the date of termination.

- (4) In cases where appeals/revisions or writ petitions are filed after three years of the orders of termination, it is directed that the such petitioner/s shall be considered for re-engagement as fresh contract employee/s, subject to medical fitness and other formalities, but he/they shall not be entitled to continuity of past service as under para- (1) above.*
- (5) In cases where contract employees have preferred appeals/revisions, but no orders have been passed therein, the appellate/revisional authorities shall entertain and dispose of those appeals/revisions in the light of the directions referred to above, preferably on or before 31st March, 2012.*
- (6) In cases where no enquiry was conducted, the respondent-Corporation shall be free to conduct enquiry as per law into the allegations of unauthorized absence of its employees from duty or other allegations of misconduct.*

The learned counsel for the petitioner prays this Court to pass similar orders in the present writ petition also.

The learned Standing Counsel for the respondent Corporation has stated that following the common order dated 29.02.2012 passed in W.P.No.2786 of 2012 and batch, several writ petitions were disposed of by this Court and the said orders were affirmed by the Division Bench of this Court in the Writ

Appeals. That W.A.No.1665 of 2012 is one such appeal, which was disposed of vide judgment dated 25.04.2013. Challenging the said judgment dated 25.04.2013, thereafter, the respondent Corporation has approached the Hon'ble Supreme Court by filing Civil Appeal No.12011 of 2018, wherein the Hon'ble Supreme Court has held as under:

"The seniority of the Respondent workman shall be counted with effect from the date of his fresh appointment in the service of the Corporation."

Having regard to the facts and circumstances of the case and having regard to the judgment of Hon'ble Supreme Court referred to above, without going into the merits or demerits of the case, the writ petition is disposed of directing the respondent authorities to consider the case of the petitioner for re-engagement afresh, subject to medical fitness and other formalities, in terms of the order passed by this Court in W.P.No.2786 of 2012 and batch, dated 29.02.2012, as modified by the Hon'ble Supreme Court in Civil Appeal No.12011 of 2018.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

A. ABHISHEK REDDY, J

Date: 02.02.2023
va