

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF AUGUST
TWO THOUSAND AND EIGHT

PRESENT
HON'BLE MR.JUSTICE R.SUBHASH REDDY
WRIT PETITION No.25218 of 1999

Between:

M. Gangadhra Rao S/o. Jammalapuri,
R/o. 6/698 Kakinagar, Jaggaiahpet,
Krishna District

... PETITIONER

AND

- 1 A.P.State Transport Corporation rep by its Vice Chairman
& Manging
Director, APSRTC, Musheerabad, Hyderabad.
- 2 A.P.State Transport Corporation rep by its Regional
Manger,
Vijayawada Region Vijayawada
- 3 A.P.State Transport Corporation rep by its Depot Manger,
Jaggaiahpeta Depot.

...RESPONDENTS

Petition under Article 226 of the constitution of India
praying that in the circumstances stated in the Affidavit filed
herein the High Court may be pleased to issue an order or
direction or writ particularly one in the nature of writ of
Mandamus or any other appropriate writ declaring the Office
Order No.P2/255(10)/98-RM (V) dt 8-7-1999 withdrawing the
selection grade scale of the petitioner herein w.e.f. 1-5-1989
is illegal, arbitrary and consequently set aside the office
order.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.C.PRAKASH REDDY

The Court made the following:

Order:

The petitioner, in this writ petition, has questioned Office Order No.P2/255(10)/98-RM (V) dated 08-07-1999, passed by the second respondent, Regional Manager, Vijayawada Region of A.P. State Road Transport Corporation.

2. The petitioner was initially appointed as Driver in Srikalahasthi Depot of Chittoor Division by order dated 10-12-1976. Subsequently, on his request, he was transferred to Jaggaiahpetta Depot, which is in Krishna Division, by order dated 21-02-1985 and joined at the said Depot on 27-05-1985. While implementing the revised pay scales of 1989, the respondent-Corporation has notified certain special grades for the employees who have put in 12 or more years of service in the same category. Initially, by computing the service of the petitioner with effect from the date of his initial appointment at Srikalahasthi Depot, i.e. 10-12-1976, he was granted special grade with effect from 01-05-1989, i.e. after completion of 12 years of service in the category of Conductor Grade-II. But, however, subsequently, show cause notice dated 14-06-1999 was issued calling upon the petitioner to show cause as to why the special grade sanctioned to him earlier with effect from 01-05-1989 should not be withdrawn and amounts excess drawn earlier should not be recovered from his salary, duly revising sanction of special grade with effect from 01-08-1997, on the ground that he was transferred to Jaggaiahpetta Depot, which is in Krishna Division, by order dated 21-02-1985 on his on request and as such he is eligible for special grade after completion of 12 years from the date of his joining at Jaggaiahpetta Depot. Though the petitioner had filed explanation to the said show cause notice on 01-07-1999,

justifying the grant of special grade, but, however, by the impugned order dated 08-07-1999, on the very same ground as mentioned in the show cause notice referred above, the special grade granted to the petitioner from 01-05-1989 was withdrawn and the same was ordered to be given effect from 01-09-1997.

3. In this writ petition, the case of the petitioner is that, initially special grade was correctly granted from 01-05-1989 on completion of 12 years of service and the same is in terms of the circulars issued by the Corporation and merely because he had agreed to forego the earlier seniority in Srikalahasthi of Tirupathi Division, the same is no ground to withdraw the special grade granted to him.

4. As per the instructions issued by the respondent-Corporation in Circular No. PD 65/1989 dated 03-06-1989, a copy of which is filed along with the material papers, it is clear that the employees who are working in the category of posts specified in Annexure-VI thereto and who have put in more than 12 years of service in the same category shall be placed onto the corresponding scale as indicated in Appendix-A of the said Circular. From the Circular instructions, it is clear that the benefit of special grade is contemplated for the employees who continued in service in the category of posts for a period of 12 years. Merely because the petitioner had agreed to forego his seniority while seeking transfer from Srikalahasthi to Jaggaipeta, the same will not affect the benefit of extension of special grade, which was rightly granted to him from 01-05-1989 at first instance. Service and seniority are two

different aspects and for grant of benefit of special grade, it is suffice if the employee serves in the same category for a period of 12 years. The seniority, which the petitioner had agreed to forego while joining at Jaggaipeta in Krishna Division, does not come in the way of the petitioner getting the benefit of the special grade.

5. For the aforesaid reasons, the order dated 08-07-1999 passed by the respondents, withdrawing the special grade granted to the petitioner from 01-05-1989, is quashed.

6. The writ petition is allowed. No order as to costs.

JUSTICE R. SUBHASH REDDY.

August 28, 2008

MRR