

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

MONDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY
WRIT PETITION NO : 4305 of 2007

Between:

The Depot Manager, APSRTC., Satyavedu Depot Satyavedu ,
Chittoor District

..... PETITIONER

AND

1 N.Lakshmi Narayana, E.550906, S/o.N.Sreenivasulu,
C/o.8/386, Court Road,Ananthapur

2 The Industrial Tribunal-cum-Labour court, Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to ID.No.129/2003 on the file of the Industrial Tribunal cum Labour court, Ananthapur and quash the award dated 17.3.2006 by issuing appropriate writ order or direction more particularly one in the nature of writ of certiorari and to pass

Counsel for the Petitioner:SMT.W.V.S.RAJESWARI

Counsel for the Respondent No.: GP FOR LABOUR

The Court made the following :

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 4305 of 2007

ORDER:

The 1st respondent was employed as a Casual Driver

in the year 1997. On the ground that he participated in an illegal strike, he was disengaged from service, vide proceedings, dated 20.07.1998, issued by the petitioner. After availing the remedies of appeal and review, before the concerned authorities, the 1st respondent filed I.D.No.129 of 2003 under Section 2-A (2) of the Industrial Disputes Act, 1947 before the Labour Court, Anantapur. Through its award, dated 17.03.2006, the Labour Court had set aside the order of disengagement and directed reinstatement of the 1st respondent with continuity of service and attendant benefits, but without back wages. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

Though two grounds were urged on behalf of the petitioner to sustain the discontinuance of the 1st respondent viz., participation in the illegal strike and holding a fabricated driving licence, the record discloses that the discontinuance of the petitioner was only on the ground of participation in the illegal strike. A doubt about the genuinity of the driving licence of the petitioner was entertained only in October 1998, by which time, the 1st respondent was already disengaged. Further, the petitioner did not hold any

departmental enquiry, before disengaging the 1st respondent. This Court held that even to disengage the casual labourers, on disciplinary grounds, holding of domestic enquiry is mandatory. Therefore, no exception can be taken to the award passed by the Labour Court, directing reinstatement of the 1st respondent.

One fact, which, however impresses this Court, is that the 1st respondent himself approached the Labour Court, five years after the order of disengagement was passed. It is not as if there was any substantial period of past service. Hardly within one year, from the date of appointment, he came to be disengaged. Therefore, the Corporation cannot be burdened with the past service, or for that matter, the attendant benefits. The 1st respondent can be directed to be reinstated as a fresh candidate. Inasmuch as he has already been reinstated, the award shall stand modified to the effect that the 1st respondent shall be deemed to have been appointed as a fresh candidate with effect from the date, on which he was reinstated.

The writ petition is disposed of, with the above direction. There shall be no order as to costs.

31.03.2008

JSU

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.2CCs to

2.2CD copies

Form-NIC-OGS/WP{TRK}

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

— — — — —

WRIT PETITION NO : 4305 of 2007

Date: 31.03.2008

JSU