

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF AUGUST
TWO THOUSAND AND EIGHT

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 19105 of 2000

Between:

Y Mani Naidu S/o Nagula Naidu
Kamma Kandriga Village, Gangireddy Palli Post,
Ramachandrapuram Mandalam, Chittoor District.

..... PETITIONER

AND

- 1 The Regional Manager, A.P.S.R.T.C.,
Tirupathi Region, Tirupathi, Chittoor District
- 2 The Depot Manager A.P.S.R.T.C.,
Tirupathi Depot, Tirupathi, Chittoor District

.....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 issue a Writ, Direction or order preferably in the nature of Mandamus declaring the action of the respondents in not paying salaries since 9/3/1998 during license verification period for 10 Months amounting to Rs. 26,120/- is illegal and unjust being violative of Arts. 14, 19(1)(g) and 21 of the Constitution and consequently direct the respondents to pay the petitioners forthwith for his salaries, since 9/3/1998 and pass such other order or orders as this Hon'ble Court may deem fit.

Counsel for the Petitioner:MR.M.PRATAP SINGH

Counsel for the Respondent No.: SMT.W.V.S.RAJESWARI

The Court made the following :

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

W.P.No.19105 of 2000

ORDER:

In this writ petition, the petitioner seeks directions by way of Mandamus to the respondents, to pay salary to him for a period of 10 months with effect from 9th March,1998, amounting to Rs.26,120/-.

2. The petitioner was appointed as a driver on daily wage basis, by proceedings of the 1st respondent- Regional Manager, dated 8-2-1996. His services were not regularized, and subsequently, on the ground that the driving licence produced by the petitioner was not genuine, he was removed from service by order dated 23-09-1998. As against the said order, he preferred an appeal before the Deputy Chief Traffic Manager, who allowed the appeal by order dated 24-1-1999, vide proceedings No.Steno/20(109)/98/RM (I), directing reinstatement of petitioner into service. In the said order, it is stated that the period from the date of removal to the date of reinstatement shall be treated as leave due, as admissible. In this petition, the grievance of the petitioner is that, though he was attending the office from 09-03-98 he was not allowed to do his job and ultimately, the appellate authority has ordered for reinstatement vide orders dated 24.1.1999. In that view of the matter, for the period of 10 months i.e.from 09-03-1998 to 24.1.1999, he is entitled for arrears of salary to the tune of Rs.26,120/-.

3. In the counter filed on behalf of the respondents, it is

stated that the petitioner was engaged on daily wage basis, subject to verification of antecedents, certificates of educational qualifications, driving licence etc. It is stated that during verification of driving licence by the Vigilance and Security Officer, Nellore, it was found that the licence produced by the petitioner was not issued by the Licensing Authority and as such, he was not allowed to work for some time. It is stated that based on the information gathered by the departmental authorities, proceedings have been initiated for removal of petitioner from service. Ultimately, by order dated 23-09-1998, the petitioner was removed from service. It is submitted that again, the petitioner was reinstated into service in view of the orders passed by the appellate authority dated 24 -1-1999. It is submitted that the appellate authority has treated the period from the date of his removal to the date of his reinstatement i.e. from 09-03-1998 to 24.1.1999 as leave due as admissible. In that view of the matter, the petitioner is not entitled for arrears of salary.

4. Since, it is the case of the petitioner that he was not allowed to work from 1998 itself without there being any order, it is to be noted that he was appointed only on casual basis, and therefore, based on the information furnished by the Vigilance and Security Wing of the Department, he was not allowed to work. Even according to the petitioner from 9-3-1998, though he had attended the office, the respondents did not allow him to work. It is to be noticed that the very appointment of the petitioner was on daily wage basis, and also subject to verification of antecedents and genuineness of the driving licence, and admittedly he did not work from 9.3.1998 to 24.1.1999 i.e. till the order of reinstatement was passed by the appellate authority. In that view of the matter, he is not entitled to claim salary for the said period.

Further, the appellate authority has ordered to treat the period from 9.3.1998 to 24.1.1999 as leave due as admissible. Though it is also to be noticed that the petitioner was duly selected by the Selection Committee constituted by the Corporation, but however, he was appointed on daily wage basis. There was a practice in the organization to make selections and initially engage the services of drivers on daily wage basis, and later absorb them into regular service subject to availability of vacancies. As much as the petitioner was not absorbed into regular service, he cannot claim wages for the period for which, he did not work.

5. For the aforesaid reasons, the writ petition is devoid of merit and it is accordingly dismissed. No order as to costs.

R.SUBHASH

REDDY,J
29-08-2008
Stp

// TRUE COPY //

..... REGISTRAR
SECTION OFFICER

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