

**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

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**WP Nos. 2786, 3109, 3716, 3724, 3894, 4272, 4551,  
4557, 4559, 4655, 4680, 4682, 4683, 4701, 4708, 4861,  
4870, 5129, 5134, 5217, 5061, 5216 and 3277 of 2012**

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Date of Judgment: 29.2.2012

Between:

Ch. S. Kumar and others

...Petitioners

and

A.P.S.R.T.C. and others

..Respondents

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4557, 4559, 4655, 4680, 4682, 4683, 4701, 4708, 4861,  
4870, 5129, 5134, 5217, 5061, 5216 and 3277 of 2012**

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**COMMON ORDER:**

Heard learned counsel for the petitioners as well as learned standing counsel appearing for respondents and with their consent, all these writ petitions are disposed of by this common order, as the issue involved in all the cases is same and common.

In WP Nos. 2786, 3109, 3277, 3716, 3724, 3894, 4272, 4551, 4557, 4559, 4655, 4680, 4682, 4683, 4701,

4708, 4861, 4870, 5129, 5134, 5217 of 2012 the petitioners were working as drivers/conductors in respondent-corporation and on the allegation of unauthorised absence from duty for several days, they were terminated from service.

In W.P.Nos. 5061 and 5216 of 2012 the petitioners are alleged to have committed irregularities in issuing tickets to passengers and on the ground of said misconduct, they were terminated from service.

As per the circular No. PD-05/2009, dated 23.2.2009 issued by the respondent-corporation which provides remedies by way of appeal/revision against orders of each termination of contract employees, the petitioners challenged the termination orders before the appellate/revisional authorities and by the impugned orders, the termination orders were set aside and the petitioners were directed to be re-engaged afresh without continuity of service and other benefits. Aggrieved by the said orders, the petitioners have filed the aforesaid writ petitions.

The petitioner in WP No. 3277 of 2012 has, however, challenged his termination order before this Court as there was no remedy of appeal/revision against the orders passed prior to 2009.

The principal grievance of the petitioners is that though they were appointed by following the rules relating to regular selection, they were appointed as contract

employees and on allegations of unauthorized absence for few days and on allegations of other misconduct, termination orders were passed without conducting any enquiry and in some cases even though the enquiry was conducted, principles of natural justice were not followed.

Various orders passed by this Court in W.P.Nos. 8090 of 2010, 6720 of 2011, 17896 of 2011, 1671 of 2012, 23103 of 2011, 1657 of 2012, 1445 of 2012, 3684 of 2012, 32816 of 2011, 2288 of 2012, 2765 of 2012, 4277 of 2011, 4106 of 2011, 26242 of 2010, 2291 of 2012, 2603 of 2012, 2696 of 2012, 1445 of 2012, 32830 of 2010 and 22776 of 2011 are placed before this Court and relied upon by the learned counsel for the petitioners as well as learned standing counsel appearing for respondents. In almost all these cases, this Court, on the premise that the termination orders were passed without conducting enquiry amounting to failure to adhere to principles of natural justice, passed consistent orders of confirming the orders of re-engagement and held that the petitioners are entitled to count their service from the date of termination till the date of re-engagement for the purpose of regularization. In other words, this Court granted relief of continuity of service to the petitioners, but without any monetary benefit and depending upon the facts and circumstances of each case, this Court granted liberty to the respondent-corporation to conduct enquiry

into the allegations of misconduct and in some cases this Court directed that the period during which the employees remained unauthorizedly absent will not be counted for continuity of service and regularization. In some of the cases this Court held that the relief of continuity of service shall be counted only for the purpose of considering their cases for regularization, but not for any other purposes. All those orders are stated to have become final. However, in view of some minor distinctions in those orders, it is felt necessary to pass a comprehensive order, as far as possible, so as to cover various issues raised by the parties and the learned counsel for parties have agreed to passing of 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 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 31<sup>st</sup> 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.

Accordingly the respondents concerned in these writ petitions are directed to examine the case of each petitioner and pass consequential orders appropriately as

per the directions given above.

With the above directions, all these writ petitions, along with miscellaneous applications, are accordingly disposed of. No order as to costs.

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VILAS V. AFZULPURKAR, J

Dt.29.2. 2012

NB:

Registry to place a copy of this order in each bundle of cases.

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