

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

**TUESDAY, THE THIRTY FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION NO: 16135 OF 2014

Between:

Md. Ameeruddin, Son of Sharfuddin, Aged about 62 years, Occ: Retired Controller, E.No.89473, Hakempet, Bombraspeta Mandal, Mahabubnagar District.

...PETITIONER

AND

1. The Andhra Pradesh State Road Transport Corporation, Represented by its Managing Director, Bus Bhavan, Musheerabad, Hyderabad-20.
2. The Depot Manager, APSRTC, Tandur Bus Depot, Tandur, Ranga Reddy District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to call for the records from the respondents and issue an appropriate Writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondent corporation in not paying the retirement benefits duly re-fixing the scale in revised pay scale along with backwages 6-4-1995 to 03-11-2006 and difference of wages as illegal, unjust, contrary to law and contrary to Respondent corporation regulation, unfair labour practice and amounts to victimization, in violation of Article 14, 16 and 21 of the Constitution of India and grant all consequential benefits, in the interest of justice and fair play.

I.A. NO: 1 OF 2014(WPMP. NO: 20005 OF 2014)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent corporation to arrange for payment of backwages from 6-4-1995 to 03-11-2006 duly re-fixing the wages in revised pay scale forthwith to be petitioner, pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI A.K.JAYAPRAKASH RAO

Counsel for the Respondents: M/s. D.SAI MAHITHA, REP. FOR

SRI THOOM SRINIVAS, SC FOR TSRTC

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION No.16135 OF 2014

ORDER:

This Writ Petition is filed by the petitioner-Employee seeking to declare the action of the respondent-Corporation in not paying the retirement benefits, duly re-fixing his pay in the revised pay scale, along with back wages from 06.04.1995 to 03.11.2006, and the difference of wages, as illegal, unjust and contrary to law.

2. The case of the petitioner is that he has joined the service of the respondent-Corporation as a Conductor during May, 1980. While so, the petitioner was removed from service *vide* order, dated 06.04.1995, on the ground of his unauthorized absence to duty for the period from 07.01.1995 to 09.02.1995. Challenging the same, the petitioner has approached the Industrial Tribunal-I, Hyderabad, and filed I.D.No.108 of 2001, which was allowed *vide* Award, dated 13.12.2004, setting aside the order of removal, dated 06.04.1995, and the respondent-Corporation was directed to reinstate the petitioner into service without back wages and other attendant benefits, with a further direction to continue the petitioner to discharge his duties as usual till the case is decided in the domestic enquiry. In pursuance of the same, the petitioner was reinstated into service *vide* order, dated 04.11.2006. Thereafter, he was promoted as Assistant Depot Clerk/Controller under Regulation 30 of the APSRTC Employees (Recruitment) Regulations, 1966, *vide* order, dated

18.12.2008. Subsequently, the petitioner has retired from service on 30.04.2010, on attaining the age of superannuation. However, the respondents have not arranged the retirement benefits of the petitioner duly re-fixing his wages and calculating the wages payable to him for the period from 06.04.1995 to 03.11.2006. Hence, the present writ petition.

3. Heard Sri A.K. Jayaprakash Rao, learned counsel appearing for the petitioner, and Ms. D. Sai Mahitha, learned counsel, representing Sri Thoom Srinivas, learned Standing Counsel for TSRTC, appearing for the respondents.

4. Learned counsel appearing for the petitioner contended that the respondents have failed to conduct a domestic enquiry on account of laches. Therefore, the respondents cannot deny the payment of wages to the petitioner for the period from 06.04.1995 to 03.11.2006. It is further contended that in compliance of the Award of the Industrial Tribunal in I.D.No.108 of 2001, dated 13.12.2004, the respondents have failed to reinstate the petitioner into service either from the date of passing of the Award or at least from the date of publication of the same in the Gazette, and they have reinstated him into service after a lapse of nearly two years from the date of passing of the Award, i.e. on 04.11.2006. As such, the petitioner is entitled for wages for the period from 13.12.2004 to 04.11.2006 and he is also entitled for revised pay scales and difference of wages from the category of conductor to its subsequent promotion to the

post of ADC/Controller w.e.f.18.12.2005. Hence, learned counsel prayed to pass appropriate orders in the present writ petition.

5. Per contra, learned Standing Counsel appearing for the respondents contended that as per the Award of the Industrial Tribunal in I.D.No.108 of 2001, dated 13.12.2004, the petitioner was reinstated into service on 04.11.2006 as a fresh conductor and he was promoted as ADC/Controller on 18.12.2008. Thereafter, he has retired from service on 30.04.2010 on attaining the age of superannuation, and the respondents have also paid the retirement benefits of the petitioner by fixing his pay from RPS'1989 to RPS'2009 including the ADC promotion benefits for the eligible period and paid gratuity amount of Rs.1,46,648/- through Cheque Nos.058837 and 076513 and also P.F. amount of Rs.60,490/- *vide* Cheque No.174837, dated 28.04.2010, and an amount of Rs.1,188/- was also paid to him towards balance amount of P.F., *vide* Cheque No.89473, dated 21.08.2010. It is further contended that if any amounts are due under the implementation of the Award of the Industrial Tribunal, the petitioner ought to have moved an application under Section 33(C)(2) of the Industrial Disputes Act, 1947, for determination of the same. It is further contended that the present writ petition is filed with a delay of 4 years, after the petitioner has retired from service. Hence, learned Standing Counsel prayed to dismiss the present writ petition.

6. This Court has taken note of the rival submissions made by the respective parties.

7. A perusal of the Award, dated 13.12.2004, passed in I.D.No.108 of 2001, discloses that the Industrial Tribunal directed the respondents to reinstate the petitioner into service, without any back wages and attendant benefits, with a further direction to continue the petitioner in service until the case is decided in the domestic enquiry, and the said Award has become final. The record further discloses that the respondents have failed to conduct the domestic enquiry as directed by the Industrial Tribunal and admittedly, they have reinstated the petitioner into service with a delay of two years i.e., on 04.11.2006. Therefore, the petitioner is entitled for wages from the date of publication of the Award i.e., 24.05.2005, till the date of reinstatement i.e., 04.11.2006.

8. Accordingly, the Writ Petition is disposed of directing the respondents to pay wages to the petitioner from the date of publication of the Award passed in I.D.No.108 of 2001, dated 13.12.2004, in G.O.Rt.No.1078, Labour Employment Training & Factories (Lab.I) Department, till the date of reinstatement i.e. from 24.05.2005 till 04.11.2006, within period of three (03) months from the date of receipt of a copy of this order.

Miscellaneous applications, if any, pending in this writ petition, shall stand closed. No costs.

SD/- T. JAYASREE
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Managing Director, Telangana State Road Transport Corporation, Bus Bhavan, Musheerabad, Hyderabad-20.
2. The Depot Manager, TSRTC, Tandur Bus Depot, Tandur, Ranga Reddy District.
3. One CC to SRI A.K.JAYAPRAKASH RAO, Advocate [OPUC]
4. One CC to SRI THOOM SRINIVAS, SC FOR TSRTC [OPUC]
5. Two CD Copies

BSR
GJP

HIGH COURT

DATED: 31/10/2023



ORDER

WP.No.16135 of 2014

**DISPOSING OF THE WRIT PETITION,
WITHOUT COSTS**

30 copies
Smt
13/12/23