

T. Narayana Vs. Managing Director, Apsrtc, Hyd. and ors.

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SooperKanoon Citation : sooperkanoon.com/436634

Court : Andhra Pradesh

Decided On : Apr-24-1998

Reported in : 1998(3)ALD304; 1998(4)ALT640; [1998(80)FLR886]

Judge : S.R. Nayak, J.

Appeal No. : WP No. 2221 of 1998

Appellant : T. Narayana

Respondent : Managing Director, Apsrtc, Hyd. and ors.

Advocate for Def. : Smt. A. Vyjayanthi, Standing Counsel for APSRTC

Advocate for Pet/Ap. : Sri V. Narasimha Goud, Adv.

Judgement :

ORDER

1. The writ petition was heard finally with the consent of the learned Counsel for the parties.

2. The petitioner while serving as Conductor in the establishment of the A.P.S.R.T.C. was removed from service with effect from 17-11-1986 as a disciplinary measure. The action of the disciplinary authority was called in question by the petitioner by instituting I.D.No. 105/92 before the Labour Court-II, Hyderabad. The Labour Court allowed the I.D. in part and directed reinstatement of

the petitioner into service with continuity of service while denying back wages. It is stated that the petitioner was out of employment between 17-11-1986 and some date in the month of October, 1993. The grievance of the petitioner in this writ petition is that after the petitioner was reinstated into service by virtue of the award passed by the Labour Court, in fixing his wage, the management has not taken into account the continuity of service for the period between 17-11-1986 and the date of reinstatement. This fact alleged by the petitioner is not denied by the management of the Corporation. It is needless to state that though under the award passed by the Labour Court, the petitioner is not entitled to the back wages, since the labour Court has awarded continuity of service, it goes without saying that after reinstatement, the management, while fixing the wage payable to the petitioner, should take into account the continuity of service of the petitioner between 17-11-1986 and the date on which he was reinstated into service. It is well settled that whenever an Industrial Court or any other Court grants continuity of service to an employee, the effect of such grant is that the employee should be deemed to have been in service when he was out of employment. This is a legal fiction flowing from grant of continuity of service. A case is made out for issuing a direction to the management of the A.P.S.R.T.C.

3. In the result, the writ petition is allowed and a direction shall issue to the respondents to compute the periodical increments that would have been earned by the petitioner had he been in service during the out of employment period and after determining such increments and on the basis of the same to fix the wage payable to the petitioner after his reinstatement and to pay the arrears in respect of the period subsequent to reinstatement. This direction shall be carried out within a period of three months from the date of receipt of a copy of this order. No costs.