

Prakash S. and anr. Vs. Managing Director, Apsrtc and ors.

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Court : Andhra Pradesh

Decided On : Jul-20-1999

Reported in : 1999(6)ALT684; (2000)ILLJ1351AP

Judge : M.S. Liberhan, C.J. and ;Goda Raghuram, J.

Acts : Andhra Pradesh State Road Transport Corporation Employees (Recruitment) Regulations, 1966 - Regulation 17; [Constitution of India](#) - Article 226

Appeal No. : W.A. No. 886/1998

Appellant : Prakash S. and anr.

Respondent : Managing Director, Apsrtc and ors.

Advocate for Def. : K. Harinath, Standing Counsel

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

Disposition : Appeal dismissed

Judgement :

ORDER

Goda Raghuram, J.

1. This appeal is directed against the judgment of the learned single Judge dated October 20, 1997 in Writ Petition No. 1786 of 1997, dismissing the writ petition.

The appellants filed the writ petition assailing the proceedings of the Personnel Officer, Andhra Pradesh State Road Transport Corporation, Rangareddy Region, (3rd respondent herein), dated December 21, 1996 and the non-review of their seniority giving them the benefit of regularisation of their services from the date of their initial appointment. By proceedings dated April 27, 1976 the appellants herein were appointed as temporary Conductors on contract basis upto July 31, 1976, though on scale of pay, along with certain others. By subsequent proceedings dated October 8, 1977 the appellants along with others were appointed under Regulation 17 of the Andhra Pradesh State Road Transport Corporation Employees (Recruitment) Regulations, 1966, with effect from October 1, 1977 on scale of pay with usual allowances. It was pleaded in the writ petition that the appellants made number of representations to the 3rd and 2nd respondents including the representations dated July 22, 1996 and October 29, 1996, but to no avail. It was further contended that contrary to certain Circulars of the Corporation they were not given the benefit of regularisation from the initial date of their appointment in 1976 and further that some others who were allegedly junior to them, were given such a benefit. Since such juniors who were extended the benefit of counting the seniority from the date of their respective initial appointments, were further promoted to the post of DC/Controller in 1996, the post to which promotions are made on seniority alone, the appellants were prejudicially affected and made representations. The further contention in the writ petition was that the appellants got issued advocate notices dated November 16, 1996 and November 18, 1996 addressed to the 2nd respondent, which resulted in a reply by the 3rd respondent dated December 21, 1996 rejecting the plea of the appellants. Constrained thereby they filed the Writ petition.

2. By the judgment under appeal, the learned single Judge declined to exercise the jurisdiction under Article 226 of the Constitution on the ground that the relief claimed by the appellants was barred by delay and laches inasmuch as the Court was approached after lapse of 20 years and that too without any adequate or sustainable reason.

3. In the appeal before us, learned Counsel for the appellants reiterated the self-same grounds which were rejected by the learned single Judge. It is contended

that in 1976 the appellants were appointed after process of selection and despite the appointments being made on temporary and on contract basis, the appointments were regular appointments and that they were entitled to count their seniority from the date of initial appointment and also for the reason that similarly situated persons have been extended such a benefit. The Corporation in its counter affidavit in the writ petition, however, contended that the appointments are temporary appointments, to non-substantive vacancies in order to meet the exigencies of peak season and that the process of selection was adhered to even for such temporary appointments to avoid arbitrariness and nepotism in the appointment process and that on the availability of clear vacancies the services of the appellants and others were regularised with effect from 1977 by the proceedings dated October 8, 1977. The Corporation also urged that the writ petition was hopelessly barred by delay and laches.

4. Learned Counsel for the appellants cited a decision of the Supreme Court in *Pushpa Agarwal v. U. P. P. S. C.* 1999 (2) LLN 1030, in support of the contention that they are entitled to regularisation from the date of their initial appointment. The appellants' counsel also relied on another decision of the Supreme Court in *G.P. Doval v. Chief Secretary, Government of Uttar Pradesh*, : [1985]1SCR70 , in support of the contention that delay per se does not disentitle relief if the claim is legitimate.

5. We are not inclined to go into the question whether the appellants' claim to regularisation from the date of their initial appointment in 1976 is valid and whether consequent upon such review they are entitled to restoration of seniority and promotions. The fact of the matter is that against the orders of regularisation in proceedings dated October 8, 1977, which accorded the appellants regular appointments with effect from October 1, 1977, the appellants have chosen to make even departmental representation only in the year 1996, 19 years after the event and have filed the writ petition in 1997 (sic), 20 years from the date of regularisation proceedings. In this long period of time a number of other employees would have had their status of seniority fertilized into a status of legitimate expectation and hope that it is not liable to be disturbed. Grant of relief to the appellants at this stage would upset and disturb such settled expectations of

seniority. The promotions of the alleged juniors in 1996 and the rejection of the appellants' representations by the 3rd respondents proceedings dated December 21, 1996, are but a reflection of the status of the appellants which has been settled for nearly a period of 20 years. The appellants have thus by their negligence and laches lost all claims to challenge the proceedings dated October 8, 1977. The dismissal of the writ petition by the learned single Judge on the ground of inordinate laches and delay, cannot thus be faulted. The decision of the learned single Judge suffers from no error in the application of law or discretion. The appeal thus fails and is accordingly dismissed, in the circumstances of the case, however, without costs.

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