

(2013) 10 AP CK 0034

In the Andhra Pradesh High Court

Case No : Writ Petition No. 28335 of 2009

Andhra Pradesh State Road Transport Corporation and The
Executive Engineer (Urban) APSRTC, JBS

APPELLANT

Vs

T. Venkataiah and The Additional Industrial Tribunal-cum-
Additional Labour Court, Hyderabad

RESPONDENT

Date of Decision : 04-10-2013

Acts Referred:

Citation : (2014) 1 ALD 232 : (2014) 1 ALT 711

Hon'ble Judges : K.G. Shankar, J

Bench : Single Bench

**Advocate : K. Madhava Reddy, for the Appellant; V. Narasimha Goud for
Respondent No. 1 and GP for Labour, for the Respondent**

Final Decision : Dismissed

Judgement

K.G. Shankar, J.—Would an order of reinstatement "with all consequential benefits" entail an employee to seek for back wages is the question that arises for consideration in this writ petition. The Andhra Pradesh State Road Transport Corporation (the Corporation, for short) seeks for a Writ of Certiorari to set aside the orders dated 07.09.2009 in M.P. No. 1 of 2009 on the file of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad directing the petitioners to pay a sum of Rs. 2,42,378.25 ps. to the first respondent and for consequential reliefs.

2. The first respondent was working as an Office Boy with the Corporation. The Corporation claims that there is no regular cadre called an Office Boy. The first respondent was discontinued from service by the Corporation. The first respondent raised Industrial Dispute (I.D. No. 34 of 2001 before the second respondent-Tribunal u/s 2-A of the Industrial Disputes Act, 1947 (the Act, for short). The Tribunal passed an award on 26.02.2005 ordering reinstatement of the petitioner "with all consequential benefits". The Corporation preferred Writ Petition No. 20484 of 2005 assailing the award. The writ petition was dismissed.

The Corporation also filed Writ Appeal No. 293 of 2007 unsuccessfully. Consequently, the Corporation reinstated the first respondent into service. It paid an amount of Rs. 24,386/- to the first respondent by depositing the same before the second respondent-Tribunal to the credit of I.D. No. 34 of 2001.

3. The first respondent moved M.P. No. 1 of 2009 u/s. 33-C(2) of the Act seeking an amount of Rs. 2,66,764.25 ps. as back wages. The Corporation resisted the claim on the ground that back wages were not awarded by the second respondent-Tribunal, through its award. The impugned order, however, was passed by the second respondent-Tribunal ordering payment of the amount as demanded by the first respondent after deducting the amount of Rs. 24,386/- already paid by the Corporation to him. The petitioners moved the present writ petition questioning the order in M.P. No. 1 of 2009 on the file of the second respondent-Tribunal and obtained interim direction staying the order of M.P. No. 1 of 2009. The stay was subsequently made absolute.

4. Sri C. Sunil Kumar Reddy, learned standing counsel for the petitioners-Corporation contended that reinstatement with all consequential benefits was granted but back wages have not been granted and that the first respondent consequently is not entitled to claim back wages. He further contended that in fact, deposit of Rs. 24,386/- by the Corporation before the second respondent-Tribunal to the credit of I.D. No. 34 of 2001 was incorrect, since the first respondent was not entitled to back wages. He submitted that as the first respondent was not granted back wages, ordering the petitioners to deposit back wages through orders in M.P. No. 1 of 2009 are bad and are liable to be set aside. It is the contention of the learned counsel for the petitioners that the orders in M.P. No. 1 of 2009 are beyond the scope of the award since consequential benefits do not include back wages.

5. Sri V. Narasimha Goud, learned counsel for the first respondent pointed out that the termination of the first respondent was in violation of Section 25-F of the Act. He also pointed out that admittedly the salary of the first respondent was Rs. 274/- per month at one time. He referred to the admission of the Law Officer of the petitioners that the petitioner was entitled to back wages at the rate of Rs. 274/- per month for a period of 89 months. He placed reliance upon *Sk. Moulana Vs. Depot Manager, APSRTC and Another*, . The Court observed in the cited case that the petitioner was entitled to the all benefits to which he would have been entitled to had he been in service. On the basis of this decision, it is contended by the learned counsel for the first respondent that once the first respondent is ordered to be reinstated on the ground of violation of Section 25-F of the Act, the first respondent would be entitled to all benefits including back wages and that the Court ordered the same through a sweeping order of granting of all consequential benefits.

6. In *Sarangi Ramachandraiah Vs. Nagarjuna Grameena Bank, Khammam and Another*, a Division Bench of this Court supported the order of the Labour Court that the employee was entitled to back wages even where in an earlier writ

petition the High Court set aside the order of dismissal and directed the reinstatement of the workmen but did not pass any direction regarding back wages. The Division Bench considered that u/s. 33-C(2) of the Act, the employee whose dismissal was set aside and who is ordered to be reinstated was held to be entitled to seek for back wages. The learned counsel for the first respondent contended that in the present case also, there was no specific order that the first respondent was entitled to back wages and that reinstatement per se would entitle the first respondent to seek for back wages. He further submitted that the petitioners in fact admitted through the evidence of MW. 1 that the first respondent is entitled to back wages and worked out the same for 89 months at the rate of Rs. 274/- per month and that the petitioners cannot now go back and claim that the first respondent is not entitled to back wages.

7. The learned counsel for the first respondent also placed reliance upon The Commissioner, Karnataka Housing Board Vs. C. Muddaiah, In the cited case also, it was observed that in appropriate cases, it would be necessary to order back wages to an employee, who is reinstated into service. It is contended by the learned counsel for the first respondent on the basis of these decisions that the first respondent is entitled to back wages and that the order in M.P. No. 1 of 2009 consequently is correct.

8. The controversy boils down to the question referred to at the beginning that whether an order of "all consequential benefits" includes back wages. It is not as though the Labour Court ordered reinstatement with, continuity of service with/without back wages and attendant benefits. The Labour Court ordered reinstatement with all consequential benefits. Back wages, continuity of service and attendant benefits are part of consequential benefits. I, therefore, consider that the first respondent is entitled to back wages as admitted by MW.1 before the Labour Court and is retracted through the present writ petition. The order of the second respondent in M.P. No. 1 of 2009, therefore, is justified. There is no ground to interfere with the impugned order. This writ petition is found to be devoid of merits and is accordingly dismissed. No costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.