

(2011) 09 AP CK 0085

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 1863 of 2003

APSRTC, Mushirabad, Hyderabad and another

APPELLANT

Vs

Harikrishna and another

RESPONDENT

Date of Decision : 06-09-2011

Acts Referred:

Andhra Pradesh State Road Transport Corporation Employees (Classification, Control and Appeal) Regulations, 1967 — Regulation 20
Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (2011) 09 AP CK 0085

Hon'ble Judges : Sanjay Kumar, J; Ghulam Mohammed, J

Bench : Division Bench

Advocate : K. Madhava Reddy, S.C. for APSRTC, for the Appellant; V. Narasimha Goud, G.P. for Labor, for the Respondent

Final Decision : Dismissed

Judgement

Ghulam Mohammed, J

1. This writ appeal is filed challenging the order dated 10.03.2003 passed by a learned single Judge of this Court in Writ Petition No.1042 of 2003 whereby and where under the order dated 30.10.2002 passed by the learned Chairman, Industrial Tribunal-II, Hyderabad, in M.P.No.54 of 2002 was upheld.

2. Parties shall be referred to as "the workman" and "the APSRTC" for the sake of convenience.

3. The case of the workman before the Tribunal was that he was a permanent employee of the APSRTC and was working as a Conductor from 1994 onwards. While so, his services were disengaged on account of alleged cash and ticket irregularities on 09.04.1996, but he was placed under put-off duty from 13.08.1995. His case is that he was entitled to put-off duty wages at the rate of Rs.110/-per day towards subsistence allowance for the said period and Rs.1600/- towards ex gratia from 1995 to 1996.

4. In the counter filed by the APSRTC before the Tribunal, it was averred that the workman was appointed as a casual Conductor on 10.11.1994 and that he was disengaged from service on 09.04.1996 due to the cash and ticket irregularities committed by him. It was also stated that in terms of Regulation 20 of the APSRTC Employees (Classification, Control and Appeal) Regulations, 1967, only regular employees of the APSRTC are entitled to receive subsistence allowance but not casual employees.

5. The Tribunal, having considered the material placed before it and placing reliance on a Judgment of this Court in Depot Manager, APSRTC v. Labor Court-III, Hyderabad 2001 LLJ 381, held that the workman, irrespective of the fact that he was working on casual basis or on regular basis, was entitled to wages for the period he was kept on put-off duty till the date of his disengagement. It was further held that although the workman categorically pleaded in his petition that he was placed under put off duty from 13.08.1995, the APSRTC failed to deny the said averment and therefore it was established that the petitioner was placed under put-off duty as claimed by him. Ultimately, the Labor Court granted Rs.26,400/- towards subsistence allowance for the period of put-off duty at the rate of Rs.110/-per day and Rs.1,600/-towards ex gratia from 1995 to 1996, which comes to Rs.28,000/-which sum was directed to be paid within one month from the date of receipt of that order.

6. Aggrieved by the said order, the APSRTC filed Writ Petition No.1042 of 2002 before this Court. A learned Judge of this Court, relying on the Judgment of this Court in APSRTC, Mushirabad, Hyd. and another Vs. M. Ramulu and another, held that the Labor Court acting u/s 33-C(2) of the Industrial Disputes Act, 1947 (for brevity, "the Act of 1947") is competent to entertain and make an award or settlement under Chapter V-A thereof. Holding so, the learned single Judge dismissed the said writ petition confirming the order passed by the Tribunal. Hence, the writ appeals.

7. The learned standing counsel for the APSRTC submitted that the workman was engaged only on daily wages basis at the rate of Rs.62/-per day and therefore he was not a permanent employee of the APSRTC. He contended that the Tribunal ought not to have granted subsistence allowance at the rate of Rs.110/-per day when he was being paid Rs.62/-per day by the APSRTC. He pointed out that the learned single Judge failed to consider these aspects and erroneously dismissed the writ petition. He therefore prayed that the writ appeal be allowed.

8. On the other hand, the learned counsel for the workman contended that although the workman specifically pleaded before the Tribunal that he was kept under put off duty from 13.08.1995 and that he was entitled to put off duty wages during the said period, the same was not denied by the APSRTC in its counter. He submitted that the learned single Judge considered all the aspects in the proper perspective and placing reliance on the Judgment of this Court in APSRTC, Mushirabad, Hyd. and another Vs. M. Ramulu and another, rightly upheld the order passed by the Tribunal granting subsistence allowance and ex

gratia to the workman.

9. We have perused the orders passed by the Tribunal as well as the learned single Judge of this Court. It is manifest from the record that while the workman claimed that he was a permanent employee and was working as a Conductor in the service of the APSRTC from 1994 onwards, the APSRTC stated that the workman was appointed as a casual Conductor on 10.11.1994. Be that as it may, the fact remains that the workman was working as a Conductor in the service of the APSRTC from 1994 onwards. The complaint of the workman is that he was placed under put-off duty from 13.08.1995 and thereafter his services were terminated. He claimed Rs.110/-per day towards subsistence allowance during the said period and Rs.1,600/-towards ex gratia from 1995 to 1996 in the petition filed u/s 33-C(2) of the Act of 1947 before the Tribunal. It is clear from a perusal of the record that the said statement made by the workman was not denied by the APSRTC in its counter filed before the Tribunal. In the absence of such denial, it is deemed to have been established that the petitioner was placed under put-off duty from 13.08.1995. The Tribunal, placing reliance on a Judgment of this Court in DEPOT MANAGER, APSRTC 2001 LLJ 381 , rightly held that the workman, irrespective of the fact that he was working as a casual Conductor or regular Conductor, was entitled to wages during the period he was kept under put-off duty till the order of disengagement. Considering these aspects and following a Judgment of this Court in APSRTC, Mushirabad, Hyd. and another Vs. M. Ramulu and another, delivered by one of us (GM,J), the learned single Judge held that the Labor Court acting u/s 33-C(2) of the Act of 1947 is competent to entertain and make an award or settlement under Chapter V-A thereof.

10. That being so, the APSRTC, having failed to deny the statement made by the workman in his petition filed u/s 33-C(2) of the Act of 1947 before the Tribunal, cannot now be permitted to refute the same. The learned single Judge considered all these aspect in the proper perspective and rightly upheld the order passed by the Tribunal. We do not find any error, infirmity or irregularity in the impugned order, which we confirm accordingly.

11. In the result, the Writ Appeal is devoid of merit and is dismissed. No order as to costs.