

(1996) 06 AP CK 0038
In the Andhra Pradesh High Court
Case No : Writ Petition No. 8469 of 1995

S. Chennakesava Rao

APPELLANT

Vs

A.P. State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 21-06-1996

Acts Referred:

Citation : (1997) 2 ALD 795 : (1997) 2 ALT 153

Hon'ble Judges : Lingaraja Rath, J;B.S. Raikote, J

Bench : Division Bench

Advocate : V.V. Narayana Rao, for the Appellant; Y. Vivekananda Swamy, for the Respondent

Final Decision : Dismissed

Judgement

Lingaraja Rath, J.—Heard the learned counsel for the petitioner. The petitioner sought appointment in the Corporation as a conductor on the basis of a Circular No. PD-92/1985 dated 23-7-1985 on the ground that he had worked on one day viz., 25-1-1984 as conductor in the Corporation on casual basis during "Work to Rule" agitation. He was informed by the Corporation on 3-9-1994 that the Circular of 23-7-1985 had been cancelled by Circular No. PD 17/1986 dated 5-2-1986 and hence his request for considering him for the post of Conductor could not be entertained. The petitioner has filed the writ petition contending the cancellation of the Circular to be arbitrary.

2. Reliance has been placed on the decisions of this Court in W.P.No. 15706 of 1988 decided on 14-10-1988 and W.P.No. 4199 of 1989 decided on 1-6-1993 which order was confirmed in W.A.No. 1217 of 1993 on 15-12-1993. It is the argument that withdrawal of the Circular was challenged in W.P. No. 15706 of 1988 wherein the petitioner in that case succeeded with direction issued to consider his case for appointment in accordance with Circular dated 23-7-1985 without reference to Circular dated 5-2-1986. As the petitioner in that case was refused appointment on the ground of lack of qualification he came before the Court in W.P.No. 4199 of 1989 wherein the learned single Judge took the view

that the very circular also contemplated relaxation of educational qualifications. The learned single Judge directed that the petitioner was entitled to exemption on par with others similarly situated and is entitled for appointment as conductor. The order was confirmed in appeal.

3. There was no decision in the earlier cases regarding the invalidity of the Circular dated 5-2-1986 cancelling the circular dated 23-7-1985. The relief granted in that case which is subsequently confirmed in appeal was only individual to the petitioner in that case but as a rule no general decision was rendered declaring the Circular dated 5-2-1986 as invalid and incompetent. It is well settled that an authority who issues a Circular has also the authority to alter, modify, cancel or withdraw the same. The entire claim of the petitioner is based upon the Circular dated 23-7-1985 which having been withdrawn by the Circular dated 5-2-1986 he should not have cause of action against the Corporation nor is it open to him to challenge the Circular as arbitrary or discriminatory. On the day he was employed by the Corporation viz., 25-1-1984, the Circular dated 23-7-1985 had not come into existence. It came thereafter and was also subsequently withdrawn. Thus on any consideration the petitioner is not entitled to any relief.

4. The writ petition has no merit and is dismissed. We however make no order as to costs.