

(2011) 03 KAR CK 0243

In the Karnataka High Court

Case No : Writ Petition No. 33092 of 2010

The Divisional Controller Karnataka State Road Transport Corporation

APPELLANT

Vs

Smt. Mahadevamma, The Assistant Labour Commissioner and Controlling Authority and The Deputy Labour Commissioner and Appellate Authority

RESPONDENT

Date of Decision : 15-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0243

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : B.L. Sanjeev, for the Appellant; Lakshaman Rao, for R1 and Jagadeesh Mundargi, AGA for R2 and 3, for the Respondent

Judgement

A.N. Venugopala Gowda, J.—Husband of 1st Respondent - Late Shivarudraiah was a temporary conductor in the Petitioner Corporation w.e.f. 31.12.1973. His services was confirmed on 17.10.1978. Shivarudraiah died on 15.7.2004. The Petitioner paid terminal benefits to Respondent No. 1.

2. Finding that there is short payment of f 14,624/- of the gratuity amount, the 1st Respondent filed. application before the 2st Respondent. The application was contested by the Petitioner herein by filing statement of objections dated 27.7.2007. There was a delay of about 2 years in the matter. An application seeking condonation was filed. Finding that there is merit in the claim made by the Applicant, who is entitled to the gratuity amount Rs. 14,624/-, the delay was condoned. Also taking into consideration the fact that representation had been submitted, the Applicant was held entitled the difference of gratuity amount of Rs. 14,624/- and interest of Rs. 6,459/-. The appeal filed by the Petitioner against the said order did riot find success with the dismissal at the appeal by the 3rd Respondent on 16.6.2010, Aggrieved, the Corporation has filed this writ partition.

3. Sri. B.L Sanjeev, learned Counsel for the Petitioner do not dispute the fact that the 1st Respondent is entitled to the difference of gratuity amount of Rs. 14,624/- The 01% grievance put forth is that the delay has been unconditionally condoned by the 2nd Respondent. For the lapse on the part of the 1st Respondent, the Petitioner cannot be made to pay the interest of Rs. 6,459/- i.e., for the delayed period,

4. Sri. Lakshmi Rao, learned Counsel for the 1st Respondent submitted that, sufficient cause having been made out and the 2nd Respondent being satisfied with the cause shown and also the fact that there was merit in the claim for payment of Rs. 14,654/-, delay was condoned. The 1st Respondent being entitled to the interest, it was quantified at Rs. 6,459/- and the order passed. Learned, counsel submits that in the facts and circumstances of the case, there exists no case for interference.

5. Sri. Jagadeesh Mundargi, learned AGA appearing for Respondents 2 and 3 made available the records and submitted that the matter has been examined in accordance with law by the Controlling Authority and Appellate Authority and decision taken,

6. In view of the rival contentions and the record, the only point for consideration is:

Whether the 1st Respondent is entitled to be paid the interest amount of Rs. 6,459/-

7. The workman-N, Shivarudrasah passed away on 15.7.04. The gratuity amount had not been paid, by taking into account the entire service. The rightful entitlement of the 1st Respondent for the difference of gratuity amount of Rs. 4624/- is conceded by Sri B.L Sanjeev. The 1st Respondent filed the application before the 2nd Respondent belatedly. Issue No. 1 raised is with regard to condonation of delay. The objections statement filed to the condonation of delay has not been considered. However, the delay was condoned. The 1st Respondent having made a belated claim, for the lapse on the part of the 15th in not approaching the authority within the period allowed, and the delay being considerable she cannot be granted the interest. The matter has not been examined in the correct perspective by the 2nd and 1st Respondents.

The delay ought to have been condoned conditionally disentitling the Applicant, the interest for the delay period.

8. In the facts and circumstances of the case; In my opinion the 1st and 2nd Respondents were not justified in fastening the liability on the Petitioner to pay interest of Rs. 6459/-, The finding recorded entitling the Applicant to Interest being contrary to the record, cannot be sustained.

In the result, the writ petition is allowed in part. The impugned order stands modified.

The entitlement of the 1st Respondent to Rs. 4624/- remains undisturbed. The order to pay interest for the delayed period amounting to Rs. 6459/- stands quashed. The Controlling Authority is directed to release in favour of the Applicant Smt. Mehadevamma Rs. 14624/- and the balance amount is deposit be refunded to the Corporation.

Parties to their respective casts.