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**(1994) 11 KAR CK 0042**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 32211 of 1994**

Venkataswamy

APPELLANT

Vs

Managing Director, Ksrtc

RESPONDENT

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**Date of Decision :** 16-11-1994

**Acts Referred:**

**Citation :** (1995) ILR (Kar) 325

**Hon'ble Judges :** M.F. Saldanha, J

**Bench :** Single Bench

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## Judgement

Saldanha, J.—Heard the petitioner's learned Counsel.

2. On behalf of the petitioner, an interesting argument has been canvassed which falls for Decision in this Petition insofar as it concerns the interpretation of the word "reinstate" as appears in the award passed by the Industrial Court. The petitioner's learned Counsel has advanced two-fold submissions, the first being that even though his client who is an employee of the respondent-Corporation had been dismissed from service, that by an Award dated 1st December 1989, he was ordered to be "reinstated into service without back wages and continuity of service". That order has been implemented and the petitioner who had originally joined the services of the Corporation as a Badli Conductor in the year 1967, came to be reinstated. The petitioner points out that the Corporation promoted the petitioner and subsequently, by an order dated 17.7.1992 Annexure-F to the Petition reverted the petitioner to his original position. It was contended by the Counsel that the Award had been overlooked and therefore the petitioner was reverted. The petitioner has represented against this and has also contended that his pay fixation has not been correctly done, his pleas have been turned down by the Corporation and the petitioner has challenged the endorsement dated 27.11.1992 contending that the action of the Corporation is wrong.

3. Petitioner's learned Counsel points out to me that quite apart from the petitioner himself having challenged the correctness of the Award to the extent

that it affects the petitioner, that the respondent-Corporation also challenged the Award but that the Corporation's petition came to be dismissed and the appellate order also confirmed the order of the learned Single Judge. Petitioner's counsel relies on the observations made particularly by the Division Bench to the effect that there was no warrant for the Corporation to pray for enhancement of the punishment insofar as the Court was of the view that the loss of back wages was adequate punishment as far as the petitioner is concerned.

4. Essentially, what is contended by the petitioner's Counsel is that the term "reinstate to reinstatement" as appears in the Law Lexicon are defined as follows :- "Reinstate". To reinstate as employee is to put an employee back in the same job and under the same terms and conditions, and therefore to "reinstate" as applied to a man who has been dismissed is to replace him in the position from which he was dismissed and so to restore the status quo ante dismissal. Vide Bindra's Conveyancing 5th Edition, Volume 1, page 535. "Reinstatement". "Reinstatement" results in replacing a person in the position from which he resigned or was dismissed, it means restoration of the status quo ante, the resignation or dismissal, as a prefix normally means "again" or "back". R. S. Maniyar v. State of Mysore 1967 SLR 823 In essence, learned Counsel contends that reinstatement implies restoration of the person concerned to his immediately past position. It is submitted that such restoration of the status quo ante means that the employee is put back in the position which he last occupied and that it is distinguishable from a case of fresh appointment. What the Corporation has sought to do is to interpret the term "loss of continuity" as appears in the Award meaning that even though the petitioner is put back in his old job, that his earlier service stands wiped out for all aspects of consideration. This is seriously disputed because the petitioner's Counsel submits that it would then mean that the Corporation has re-appointed the petitioner and treated him as a fresh appointee de hors the fact that he has served for several years prior to the date of dismissal. The contention adopted proceeds on the footing that the term "reinstate" must be held to mean that the petitioner is put back to the position where he was when the dismissal order was passed and the loss of continuity must be interpreted to mean that while computing the petitioner's total tenure of service, that the period of absence only will have to be excluded. If the petitioner is right in this interpretation, then by all means he would be entitled to succeed in the present Petition and the Corporation has to give credit to the petitioner for the earlier years of service even if his absence period is to be disregarded.

5. These concepts cannot be interpreted in isolation or in vacuum but will have to be done in relation to the facts of the case and the specific wording of the order. The dispute to my mind is not with regard to the interpretation of the term "reinstate" with regard to which there is little ambiguity. The real question is as to how the Court is to construe the term "loss of continuity". If as submitted by the petitioner's Counsel the term loss of continuity is to mean that the period of absence is to be excluded, then the Court would have specified that for purpose

of computation of tenure of service, it is only this period during which he has lost his wages that is to be excluded. When the court has clearly stated that the petitioner shall be liable for the loss of continuity, it means that the Court was conscious of the fact that even if an order of dismissal was too harsh that the petitioner did qualify for some other relatively serious punishment and this in the opinion of the Court consisted of deprivation of the petitioner's back wages for the period of absence and the loss of benefits that had accrued to the petitioner by virtue of his past service. Since the court has specified that the petitioner has to lose the continuity, it is abundantly clear that even though the petitioner was to be reinstated, namely put back in the same job position which he has left, that he was not to be treated as having continued in the employment of the Corporation. I do not see any ambiguity with regard to the interpretation of this part of the order. Under these circumstances, the corrective action taken by the Corporation and the subsequent endorsement refusing to restore the petitioner's promotion and give him the higher salary are perfectly justified. No interference is warranted with regard to these orders. I need to however clarify that the petitioner's learned Counsel points out to me that his Petition challenging the original Award is yet to be heard. What that Petition is taken up for hearing by the Court, the justification or otherwise of imposing the condition that the petitioner would lose his back wages and his continuity of service will be open for consideration before the Court and the petitioner shall not be fettered in any way either in the submissions or with regard to the consideration of the terms of the Award by virtue of the present Order. This Order only takes care of the action of the respondents that has been challenged at this point of time.

6. The Petition accordingly fails and stands dismissed. No order as to costs.