

Commissioner, Guntur Municipality

Vs

B. Christudasu

Civil Appeal No. 7693 of 1997

(S. B. Majmudar, S. P. Kurdukar JJ)

13.11.1997

ORDER

1. Leave granted.
2. Heard learned counsel for the parties and perused the relevant records.
3. The respondent was initially appointed as a daily-wager in Guntur Municipality. After completion of 5 years of service as NMR he was regularised. It is the claim of the respondent that during this period he was working as a driver and, therefore, after regularisation as a Class IV employee he should be assigned the duties and the pay scale of driver. Since Guntur Municipality did not accede to the said request, the respondent filed OA No. 980 of 1991 before the Andhra Pradesh Administrative Tribunal at Hyderabad.
4. The appellant opposed the contentions raised by the respondent in the said original application and contended that at the relevant time a Class IV employee was placed in the grade of Rs 740-1150 which has now been revised to Rs 1375-2375. The pay scale of the driver was Rs 860-1470 which has been revised to Rs 1595-3020. Since the post of driver is higher in the pay scale and being a promotional one, merely because the respondent happened to be working as a driver, would not be entitled to claim the post of driver and the pay scale thereof.
5. The Tribunal, however took the view that since the respondent was recruited as NMR driver and regularised in that capacity, in pursuance of the directions of the Tribunal vide order dated 14-6-1988, is entitled to continue as driver. The Tribunal accordingly passed an order in favour of the respondent. The order is dated 19-8-1996. It is this order which is impugned in this appeal.
6. In our opinion, the Tribunal has committed an error apparent on the face of the record while holding that the respondent was appointed as an NMR driver. The record placed before us clearly indicated that the respondent was initially recruited as an NMR and regularised as Class IV employee in the pay scale of Rs 740-1150 which stood revised to Rs 1375-2375. As indicated earlier, the pay scale of driver prior to revision was Rs 860-1470 and now revised to Rs 1595-3020. It is not the claim of the respondent that he was while discharging the duties of driver, given the pay scale of driver. Consequently, it must follow that the respondent was regularised as a Class IV employee in the pay scale of Rs 740-1150, which now stood revised to Rs 1375-2375. In view of these facts, it is difficult to accept the finding of the Tribunal that the respondent was recruited as an NMR driver. The affidavit of Shri M. T. Krishna Babu dated 8-8-1997 indicates that the post of driver is a promotional post. If this be so, certainly the respondent could not claim at this stage the said promotional post.

7. It was contended on behalf of the respondent that there are several vacancies of drivers and as the respondent has been working as driver since 1979, he should be accommodated as a driver and given the pay scale of a driver. We are, however, not impressed by this argument because if the driver's post is a promotional one, the appellant will have to follow the rules and regulations prescribed therefor. If there are any vacancies, we have no manner of doubt that the appellant will take necessary steps to fill in the vacancies.

8. In the result, the appeal is allowed. The order of the Tribunal dated 19-8-1996 is set aside and consequently OA No. 980 of 1991 filed by the respondent is dismissed. In the circumstances, there would be no order as to costs.