

**SUPREME COURT OF INDIA**

I. Laxma Reddy

Vs.

A.P.S.R.T.C.

C.A.No.4511 of 2005

(Arijit Pasayat and P.Sathasivam JJ.)

22.11.2007

**JUDGMENT**

**Dr. ARIJIT PASAYAT, J.**

1. Challenge in this appeal is to the order passed by a Division Bench of the Andhra Pradesh High Court allowing the writ appeal filed by the respondent-Andhra Pradesh State Road Transport Corporation (in short the Corporation) and its functionaries.

2. A writ petition was filed by the appellant claiming that since an award was passed by the Labour Court directing his re-instatement, his pay has to be fixed after taking into consideration the notional increments. Learned Single Judge relied on a Division Benchs decision in APSRTC Khammam Region and Anr. v. P. Nageswara Rao (2001 (4) ALD 568 (DB) and allowed the writ petition.

3. Present respondents filed a writ appeal before the High Court questioning correctness of the judgment. The High Court noticed that the view expressed by the Division Bench in P. Nageswara Raos case (supra) was dis-approved by this Court in A.P.S.R.T.C. v. S. Narsagoud (2003 (2) SCC 212) and, therefore, allowed the writ appeal directing dismissal of the writ petition.

4. In support of the appeal, learned counsel for the appellant submitted that when an order of re-instatement is passed for all practical purposes there will be continuity in service and, when the re-instatement is done the pay has to be fixed after taking into consideration the notional increments which would have otherwise accrued.

5. Learned counsel for the respondents on the other hand supported the order passed by the High Court.

6. The principles of law on the point are no more res integra. This Court in S. Narsagouds case (supra) succinctly crystallized principle of law in para 9 of the judgment :

We find merit in the submission so made. There is a difference between an order of reinstatement accompanied by a simple direction for continuity of service and a direction where reinstatement is accompanied by a specific direction that the employee shall be entitled to all the consequential benefits, which necessarily flow from reinstatement or accompanied by a specific direction that the employee shall be entitled to the benefit of the increments earned during the period of absence. In our opinion, the employee after having been held guilty of unauthorized absence from duty cannot claim the benefit of increments notionally earned during the period of unauthorized absence in the absence of a specific direction in that regard and merely because he has been directed to be reinstated with the benefit of continuity in service.

7. The position was re-iterated in A.P. State Road Transport Corporation and Ors. v. Abdul Kareem (2005 (6) SCC 36). In view of what has been stated by this Court in S. Narsagoud and Abdul Kareem cases (supra), there is no merit in this appeal which is accordingly dismissed. There will be no order as to costs.