

I. LAXMA REDDY  
v.  
A.P.S.R.T.C. AND ORS.

A

NOVEMBER 22, 2007

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

B

*Labour Law:*

*Reinstatement—Claim for fixation of pay taking into consideration notional increments—HELD: A simple order of reinstatement would not entitle the employee to claim the benefit of notional increments.*

C

The appellant filed a writ petition claiming that in view of the order of reinstatement in service passed by the Labour Court, his pay should be fixed taking into consideration the notional increments, since for all practical purposes there would be continuity in service. The single Judge relying on the decision in *Nageswara Rao's case*<sup>1</sup>, allowed the writ petition, but the Division Bench of the High Court allowed the writ appeal filed by the department. Aggrieved, the employee filed the instant appeal.

D

E

Dismissing the appeal, the Court

**HELD:** In view of the decisions of the Court in *S. Narsagoud and Abdul Kareem*\* an order of reinstatement accompanied by a simple direction for continuity in service would not entitle the employee to claim benefit of increments unless specifically ordered to that effect.

F

[Para 6 and 7] [435-A, B, C]

\**APSRTC v. S. Narsagoud*, [2003] 2 SCC 212 and *A.P. State Road Transport Corporation and Ors. v. Adbul Kareem*, [2005] 6 SCC 36, relied on.

G

---

1. *APSRTC Khammam Region and Anr. v. P. Nageswara Rao*, (2001) 4 ALD 568(DB)

H

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4511 of 2005.

From the Judgment and final Order dated 10.7.2003 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Writ Appeal No. 1092/2003.

B V. Sridhar Reddy and Abhijit Sengupta for the Appellant.

D. Mahesh Babu for the Respondents.

The Judgment of the Court was delivered by

C **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.

D 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 Bench's decision in *APSRTC Khammam Region and Anr. v. P. Nageswara Rao*, (2001) 4 ALD 568 DB and allowed the writ petition.

F 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 Rao's* 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.

G 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.

H 5. Learned counsel for the respondents on the other hand supported

the order passed by the High Court.

A

6. The principles of law on the point are no more *res integra*. This Court in *S. Narsagoud's* 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.”

B

C

D

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.

E

R.P.

Appeal dismissed.