

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT GULBARGA

DATED THIS THE 07<sup>th</sup> DAY OF AUGUST, 2012

BEFORE

THE HON'BLE MR.JUSTICE H.N.NAGAMOHAN DAS

**WP NO 84939 OF 2011(L-KSRTC)**

**BETWEEN**

1. THE NEKRTC THROUGH ITS  
MANAGING DIRECTOR  
SARIGE SADAN MAIN ROAD  
GULBARGA.
2. THE DIVISIONAL CONTROLLER  
NEKRTC, RAICHUR DIVISION  
RAICHUR, REP. BY ITS  
CHIEF LAW OFFICER, NEKRTC,  
CENTRAL OFFICE, SARIGE SADANA  
GULBARGA – 585 103. ... PETITIONERS

(By Sri. SHIVASHANKAR H MANUR, ADV.)

**AND**

BABURAO  
S/O BHEEMANNA  
AGE 48 YEARS  
OCC: NIL (EX-CONDUCTOR T.C. NO.920  
BIDAR DEPOT)  
R/O H.NO.C-104, CHITTARWADI POST  
GANDHIGUNJ, BIDAR – 585 401. ... RESPONDENT

(By Sri. P VILASKUMAR , ADV.)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED AWARD DATED 06.01.2011 PASSED BY THE PRESIDING OFFICER, LABOUR COURT, GULBARGA IN KID NO. 29/2009 AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

In this writ petition the Corporation has called in question the impugned award dated 06.01.2011 in KID No. 29/2009 passed by the labour Court at Gulbarga directing reinstatement of the respondent workman into service without backwages and with continuity of service.

2. Respondent was a conductor in the petitioner Corporation. For misconduct articles of charges were issued, enquiry was held and on 31.10.2008 the respondent was dismissed from service. The respondent raised a dispute before the labour Court in KID No. 29/2009 under Section 10(4)(A) of the Industrial Disputes Act (for short 'the Act'). On contest the labour Court passed the impugned

award directing reinstatement of respondent without backwages and with continuity of service. Hence, this writ petition.

3. It is not in dispute that in I.D. No. 148/2005 pending on the file of the Industrial Tribunal, Bangalore, the Charter of Demands raised by the KSRTC Staff and Workers Federation is pending. Petitioner herein is a concerned workman. The action of the respondent Corporation in having not sought approval of termination of the petitioner from service by filing an application under Section 33(2)(b) of the Act is void and inoperative in view of the law declared by the Apex Court in the case of Jaipur Jilla Sahakari Bhoomi Vikas Bank Vs. Sri. Ram Gopal Sharma, AIR 2002 SC 643. This Court in identical circumstances in W.P. No. 60395/2012 vide order dated 13.07.2012 directed reinstatement and other benefits.

4. Learned counsel for the petitioner Corporation submits that the issue relating to Section 33(2)(b) of the Act is pending before a Division Bench of this Court in W.A. No. 1159/2012 and connected matters.

5. In view of the above, the writ petition is hereby dismissed.

This order is subject to the final outcome in W.A. No. 1159/2012  
and connected matters.

Sd/-  
JUDGE

LRS.