

HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.17901 of 2012

-

Date: April 24, 2015

-

Between:

Prof. N.V. Subba Raju. ... Petitioner

and

1. Secretary & Correspondent,

Sagi Ramakrishna Raju Engineering

College, Chinna Amiram (P.O),

Bhimavaram, W.G. District, A.P. & 2 others. ... Respondents

* * *

HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.17901 of 2012

ORDER:

This writ petition was filed by a Professor working in the 1st respondent college challenging its proceedings dated 30.03.2012 on the ground that they were violative of the principles of natural justice in addition to being arbitrary and

unconstitutional. A consequential direction was sought to continue the petitioner in the service of the 1st respondent.

2. The impugned proceedings dated 30.03.2012 were issued by the 1st respondent college calling upon the petitioner to submit his representation in the context of the findings recorded against him in the enquiry report dated 30.01.2012. By way of W.P.M.P. No.22921 of 2012, the petitioner sought suspension of the order dated 30.08.2011, whereby he was placed under suspension. By order dated 26.06.2012 passed in the said W.P.M.P, this Court took note of the fact that continuation of the petitioner under suspension was in apparent violation of the provisions of Section 79 (3)(b) and the proviso thereunder of the A.P. Education Act, 1982 and accordingly suspended the order dated 30.08.2011, directing the 1st respondent college to reinstate the petitioner in service. The petitioner is said to have been reinstated in service, but it is his complaint that no salary was paid to him for the service rendered upon such reinstatement.

3. Significantly, this Court did not pass any order in W.P.M.P.No.8401 of 2013 filed by the petitioner seeking suspension of the disciplinary proceedings. It appears that the petitioner also sought amendment of his prayer in the writ petition by way of W.P.M.P.No.23391 of 2012, but no orders were passed thereon. By way of the proposed amendment, the petitioner sought to enlarge the scope of the relief earlier sought by him.

4. W.V.M.P.No.4155 of 2012 was filed by the 1st respondent college to vacate the interim order dated 26.06.2012 passed in W.P.M.P.No.22921 of 2012 filed in this writ petition.

5. Sri O. Manohar Reddy, learned counsel for the 1st respondent college, submitted that the disciplinary proceedings had been concluded, but no action was being taken as the final approval of the State had been sought under Section 79 of the Act of 1982 and the same was still awaited. He asserted that the State is keeping the matter pending owing to this writ petition. However, Sri Naga Srinivas Rao, learned counsel for the petitioner, would state that his client has been informed that the Commissioner of Technical Education, Andhra Pradesh, has passed orders on 24.01.2013 rejecting the punishment proposed by the 1st respondent college of removing the petitioner from service. However, as the Commissioner of Technical Education, Andhra Pradesh, the 2nd respondent, has not chosen to file a counter before this Court, this aspect of the matter remains disputed.

6. In any event, it is not for this Court to undertake an enquiry as to the validity of the disciplinary proceedings at this stage. Intervention by this Court at the interlocutory stage was limited to the examination of the order placing the petitioner under suspension. Pursuant to the said interim order, the petitioner was admittedly reinstated in service. Any grievance that he may have with regard to non-payment of his dues, if any, upon such reinstatement would necessarily have to be addressed by way of independent proceedings and cannot be made the subject matter of enquiry in this writ petition. In the event the disciplinary authority takes any action against the petitioner based upon the subject disciplinary proceedings, that would also give rise to a fresh cause of action. The petitioner cannot seek to pre-empt such decision by insisting upon the validity of the disciplinary proceedings being

examined by this Court in the present writ petition as a condition precedent. In the event requisite approval is not granted by the State to the punishment proposed by the 1st respondent college, it would be for the college to take appropriate necessary action basing thereupon. It may well be possible that the college may take no further action. The petitioner therefore cannot presume at this stage that any particular decision would be taken in the said disciplinary proceedings. As it is now stated that the disciplinary proceedings have concluded and the matter is awaiting a final decision, this Court sees no purpose served in keeping the present writ petition pending.

7. The writ petition is accordingly disposed of leaving it open to the 1st respondent college to take appropriate action in the matter in accordance with law. As the petitioner has already been reinstated in service owing to the interim order of this Court, he shall be so continued till a final decision is taken in the disciplinary proceedings. Pending miscellaneous petitions, if any, shall stand closed in consequence. No order as to costs.

SANJAY KUMAR, J.

Date: April 24, 2015.

BSB

HON'BLE SRI JUSTICE SANJAY KUMAR

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

-

Date: April 24, 2015

-

BSB

-