

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.3474 of 2003

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ORDER:

This writ petition is filed to declare the action of respondents in not settling the terminal benefits of Bheemeswar Rao, AAE/Civil, NSHES, Nagarjunasagar and not providing compassionate appointment to second petitioner herein as illegal and arbitrary.

2 . According to petitioners, husband of first petitioner and father of second petitioner Sri M.V.R. Bheemeswar Rao was initially appointed as Draughtsman, Grade-III in the erstwhile A.P.S.E.B through Memo dated 03.05.1965 and he joined as Draughtsman on 07.06.1965. Thereafter, he was appointed as AAE (civil) by transfer as per proceedings No.MPS/DM.I/3739/C.2/77, dated 21.02.1979 and he joined in that post on 08.03.1979 and worked at VTPS, Vijayawada. According to petitioners, Bheemeswar Rao was transferred from VTPS, Vijayawada to Nagarjunasagar through Memo No.CCD/120/80, dated 12.05.1980 and he worked at Nagarjunasagar till 14.11.1983, thereafter, he suddenly disappeared from that date. According to petitioners, in spite of their best efforts, they could not trace his whereabouts and they were hopeful that he is returned safely, but as their hope did not yield any positive result, they approached respondents requesting them to release pensionary benefits and provide employment to second petitioner. According to petitioners, they lodged a complaint with police to secure the presence of Bheemeswar Rao and ascertain his whereabouts, but the police could not found him and issued certificate to that extent. According to petitioners, they came to know that respondents have paid terminal benefits to the wife of disappeared employee and also provided suitable employment to the children presuming the disappeared employee as dead. But in their case, such benefit was not extended to them. According to petitioners, they have approached this Court through Writ Petition No.12614 of 2000 while the same was pending, the authorities of first respondent have given an impression that

their request would be considered sympathetically, and believing the same, that writ petition was withdrawn with liberty to approach this Court, if required. According to petitioners, despite withdrawal of writ petition, their case has not been considered, and having no option, they again approached this Court seeking direction as prayed for.

3. Counter-affidavit is filed on behalf of respondents and according to counter, Bheemeswar Rao continued as Additional Assistant Engineer (AAE) at Nagarjunasagar up to 14.11.1983, and from that date, he abstained unauthorizedly for duty. It is contended that there was no FIR filed by petitioners or any of the family members regarding disappearance of Bheemeswar Rao in any police station as per their official records. According to counter, respondents have issued a memo dated 29.12.1983 which was sent to his permanent address available as per Service Register through registered post, but the same was returned with an endorsement that 'the party was not available'. According to counter-affidavit, subsequently a notice was published in 'News Time' daily in Hyderabad edition and also in 'Andhra Prabha' daily, Vijayawada edition calling employee to report to join duty within a week cautioning him with disciplinary action in case he failed to report for duty. In spite of these efforts, employee has not reported to duty, therefore Bheemeswar Rao is deemed to be removed from service for his unauthorized absence from 14.11.2003 and he ceased to be employee, as such pension rules are not applicable to him. It is further stated in the counter that the allegation that under similar circumstances respondent has granted pension and other terminal benefits to the dependants of some other employee is very vague and no details are given. The scheme of providing compassionate appointment has no application to the facts of this case. The respondent has not given any assurance at the time of hearing of earlier writ petition No.12614 of 2000 and petitioners have withdrawn the same on their own but not on the assurance of respondents. It is further contended that petitioners are not entitled for the relief claimed.

4. Heard arguments.

5. I have perused the material papers filed along with writ petition. Except self-serving affidavit of petitioners, there is absolutely no other material to show that Bheemeswar Rao disappeared from 14.11.1983. Though

petitioners contended that they lodged complaint with police and police have given a certificate to the extent that whereabouts of Bheemeswar Rao could not be found, but no such certificate is filed. When respondents specifically contended that there is no FIR for the disappearance of Bheemeswar Rao, petitioners have not filed any copy of complaint given to police nor at least furnishing the crime number registered by police on the basis of their complaint.

6. As rightly objected in the counter, claim of petitioners is based on vague allegations not supported by any material in order to get pensionary benefits. It is incumbent on petitioners to show that the employee is no more or at least deemed to have died as per Rules or any statute. Without producing any material in support of the allegations made in the writ petition, petitioners cannot claim relief of either pension or compassionate appointment. When respondents contended that they have issued memo and also published notice in the newspapers and thereafter treated the employee has unauthorizedly abstained from duty and thereby deemed to have been removed from service, it is for petitioners to show how the pension rules can be applied to such cases. The petitioners have miserably failed in making out a case.

7. For these reasons, I am of the view that the writ petition is devoid of merits and liable to be dismissed.

8. Accordingly, this Writ Petition is dismissed. No costs. Miscellaneous petitions, if any pending, in this writ petition shall also stand closed.

S. RAVI KUMAR, J

Date: 01-12-2015.

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