

**THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

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WRIT APPEAL No.829 of 2006

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JUDGMENT: (per Hon'ble Sri Justice A.Ramalingeswara Rao)

This writ appeal is preferred against the order of the learned single Judge dated 28.10.2005 passed in writ petition No.23208 of 2005.

Writ Petition No.23208 of 2005 was filed seeking a direction that the period of absence of the petitioner from 01.08.1988 to 15.03.1998 be treated as 'duty period' and also for all consequential benefits.

The petitioner was working as Typist in New Science College, Amberpet, Hyderabad (3rd respondent herein). His name was removed from the attendance register on 11.08.1988 and was prevented from attending duties. Against the said action, he preferred an appeal before the competent authority and the competent authority disposed of the appeal in G.O.Rt.No.1838 dated 13.12.1997 by allowing the appeal and setting aside the order of removal. While passing the said order, it was further directed that the petitioner-appellant be admitted into service with immediate effect, to treat the period of absence as leave as per eligibility and to take action as per rules after following due procedure. The said order of the competent authority was challenged by the 3rd respondent in W.P.No.34138 of 1997 and this Court by order dated 04.03.1998 disposed of the said writ petition with a direction that the second respondent, appellant herein, shall report to duty on or before 16.03.1998 and on such report, he shall be taken back to duty and the period of absence shall be regularized by the Management in accordance with the directions issued by the Government in G.O.Ms.No.1838. It was also made clear

that the second petitioner-appellant shall discharge his functions only as a Typist and he shall not seek any alternative employment on the ground of his disability. The said order has become final.

Thereafter, the petitioner-appellant filed W.P.No.23208 of 2005 for the relief stated above. The learned Single Judge dismissed the said writ petition on 28.10.2005 with the following directions:

“There is one factor which disables the petitioner from raising that plea, at this stage. The third respondent filed W.P.No.34138 of 1997 challenging the orders of the first respondent in G.O.Rt.No.1838 dated 13.12.1997, impleading the petitioner as the second respondent. It was open to the petitioner to point out his grievance about the denial of the benefit in relation to the period of absence. Neither an independent writ petition was filed nor a plea similar to Cross-objections, was raised in that writ petition. This Court disposed of the writ petition on 04.03.1998 directing that the petitioner shall be reinstated into service with effect from 16.03.1998. The order in G.O.Rt.No.1838 dated 13.12.1997, was accorded finality in all respects. Therefore, it is not open to the petitioner to challenge any conditions or clauses in the said findings, at this stage.”

We do not see any error apparent on the face of the record in the order of the learned single Judge and the writ appeal is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending in the appeal, if any, also stand disposed of.

Dilip B.Bhosale, J

A.Ramalingeswara Rao, J

19th January, 2015.
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