

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Petition No.2511 of 2001

ORDER:

This writ petition is filed under Article 226 of the Constitution of India to issue a direction in the nature of Mandamus declaring the proceedings issued by the 2nd respondent in Memo No.SE/OP/NLG/ADM/U1/D.No.665/97 dated 03.07.1997, whereunder the representation made by the writ petitioner, to fix the seniority treating the period of absence as E.O.L. and granting notional increments for the said period, was negatived.

The petitioner joined in service of the respondent-Corporation as Stores Assistant on 01.12.1964 and worked till 05.06.1969. Later, on account of Telangana agitation, the petitioner could not attend to duties from 06.06.1969 to 08.10.1971, as there was a threat from the agitators in Telangana Area, since he was a resident of Renigunta, Chittoor District. Thereafter, the petitioner approached the respondents and made a request for permitting him to join duty. Acceding to the said request, the respondents re-posted the petitioner vide orders dated 07.10.1971 and immediately he reported to duty on 09.10.1971.

The petitioner made a representation to treat the period of his absence as E.O.L. and regularise his services from the original date of appointment granting notional increments. However, by the impugned proceedings issued by the 2nd respondent, the representation was not accepted and the request, to grant notional increments, regularising the services from 01.12.1964, so as to enable the petitioner to claim notional increments and other benefits, was declined. The said order is said to have been communicated to the petitioner long after his retirement. It is contended by the petitioner that the order passed by the 2nd respondent is illegal, unjust and contrary to law and in violation of the principles of natural justice.

The respondents filed a counter affidavit, contending that since the appointment of the petitioner is only a fresh appointment, the service commences from the date of joining duty on 09.10.1971 and the past service rendered by him cannot be counted for grant of notional increments and consequential benefits. It is also contended that the petitioner is not entitled to claim consequential benefits and regularisation from 01.12.1964 when he was initially appointed as Stores Assistant in the respondent-Corporation and

prayed to dismiss the writ petition.

Learned Senior Counsel Sri A.K.Jayaprakash Rao, during the course of hearing, fairly conceded that if the appointment was fresh appointment, the petitioner is not entitled to claim consequential benefits and notional increments taking into consideration the past service rendered by him. However, the learned counsel for the respondents reiterated his contentions.

Admittedly, the petitioner was appointed as a Stores Assistant on 01.12.1964 and discharged his duties for some time. Later due to Telangana Agitation, he did not attend to the duties due to the obstruction caused by the agitators from discharging duties, as he belongs to Renigunta of Chittoor District. The cause shown by the petitioner is not a sufficient cause, which prevented him from discharging duties in the ordinary course of events, and no such complaint was given to any of the authorities informing about the specific cause mentioned in the writ petition for his failure to discharge the duties. Therefore, the respondents treated his absence as wilful absence from duty and terminated him from service. However, on the representation of the petitioner, he was appointed afresh on 09.10.1971. Since it was a fresh appointment, the past service prior to 09.10.1971 cannot be counted to work out notional increments and other consequential benefits payable to the petitioner. Further, the petitioner is not entitled to claim regularisation of service from the original date of appointment i.e. 01.12.1964 and thereby non-consideration of representation of the petitioner by issuing proceedings in Memo No.SE/OP/NLG/ADM/U1/D.No.665/97 dated 03.07.1997 is not illegal and requires no interference of this Court while exercising jurisdiction under Article 226 of the Constitution of India. I find no ground to grant any relief in this writ petition.

Hence, the writ petition is dismissed.

Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

M.SATYANARAYANA MURTHY, J

Date: 07.11.2015

JSU

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-
-
-
-
-
-
-
-
-

—

—

—

—

—

—

—

—

—

1

1

Writ Petition No.2511 of 2001

—

—

Date: 07.11.2015

JSU