

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 345 OF 2012

ORDER:

Petitioner was appointed as Development Officer in the respondent Corporation on 24.04.1988. He was terminated from service on 13.03.2009. After his termination, the petitioner requested for reappointment. On due consideration of his request, the petitioner was offered to provide reappointment subject to the petitioner repaying the amounts/benefits received by him on earlier termination. The petitioner protested against payment of such amounts. Challenging the imposition of such condition, the petitioner earlier filed W.P.No.7479 of 2011. After considering the rival claims, this Court found that failure to deposit the amount does not cause any serious hardship to the respondent Corporation. However, this Court granted time of two months to repay the amount demanded by the respondent Corporation in their letter dated 20.12.2010, after he joins duty. As a consequence to the orders of this Court, the petitioner joined service on reappointment to the post of Assistant on 02.11.2011. In the order of reappointment, the petitioner was directed to pay an amount of Rs.5,34,557.89 ps. as ordered by this Court in the above writ petition. The petitioner instituted this writ petition claiming that such demand is illegal and that he is entitled for pay revision arrears, payment of salary for the period from 13.03.2009 to 11.11.2011 and also to declare that the benefits received by him under the heads of compensation for waiver of the notice period, provident fund and GSLI as not terminal benefits, as illegal and arbitrary.

2. The learned standing counsel appearing for the respondent Corporation states that pursuant to the orders of this Court, the petitioner was admitted to duty and he has also paid all the amounts as demanded by the respondent Corporation on 11.01.2012. He, therefore, submits that the cause in the writ petition does not survive.

3. There are two components in the relief sought by the petitioner. They are (i) waiver of amounts already paid to the petitioner; and (ii) his earlier termination from service.

4. The first issue was considered by this Court in W.P.No.7479 of 2011 and this Court rejected the contention of the petitioner that he

need not repay those amounts. However, this Court granted time of two months for repayment of the amounts, after joining the duty. Therefore, it is not open to the petitioner to rake up the same issue once again in this writ petition and the earlier order operates as res judicata.

5. With reference to the second component of the prayer sought by the petitioner, it is to be seen that the petitioner was earlier terminated and the order of termination has become final. On further representation made by the petitioner, the respondent Corporation considered his request favourably and offered to give him appointment as Assistant subject to the petitioner remitting the entire amount paid. Therefore, it cannot be said that the earlier termination order was withdrawn. What is granted to the petitioner is appointment as Assistant. Thus, the petitioner is not entitled to compute the past service for other benefits. It being a reappointment to a different post, all the benefits consequent to such appointment shall be treated as fresh benefits only and the petitioner cannot fall back on the past service for computation of other service benefits. Hence, I see no merit in the writ petition and it deserves no consideration.

6. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand dismissed.

P. NAVEEN RAO, J

4th November, 2015

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