

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

W.P.No.2616 OF 2006

ORDER:

This writ petition came to be filed seeking issuance of writ of *Mandamus* declaring the order of respondent No.2 bearing No.MR- 65/402/82/Estt.I dated 13.5.2003 and also order of respondent No.1 bearing No.2075/402/82/Estt.I dated 29.6.2005 as null and void, and consequently, to take petitioner No.1 on rolls and to pay the salary from the forenoon of 13.5.2003 till date with all other consequential benefits as per lawful entitlement besides compensation for violation of basic human rights and fundamental rights.

2. The order dated 13.5.2003 of the respondent University, which is the subject matter of challenge in the writ petition, shows that petitioner No.1 herein, who initially appeared in person before this Court, while working as Senior Assistant, Office of the Special Officer, (Infrastructure), Registrar's Office, Osmania University, was unauthorisedly absent to his duties from 5.9.2001. He was issued memo/show cause notice/final notice directing him to report for duty, but did not respond to any of them. The University then appointed Sri J.V.Sharma, I.F.S. (Retd.,) as an Enquiry Officer to enquire into the allegations made against him. He was issued Memo of charges framing the following charges:

1) Unauthorized and wilful absence to duties with effect from 5.9.2001 and 2) Disobeyance of University orders directing him to report for duty.

Meanwhile, petitioner No.1 requested the University to permit him to join duty and he was permitted to join duty from 31.5.2002 (forenoon) without prejudice to the disciplinary action initiated against him. Again, he remained absent to duties with effect from 3.8.2002 and requested to permit him to join duty. He was again permitted to join duty from 24.8.2002 (forenoon) without prejudice to the disciplinary action already initiated against him. The Enquiry Officer conducted the enquiry as

per the procedure laid down and submitted his report concluding that petitioner No.1 is guilty of the charges framed against him. He was issued a show cause notice directing him to submit written statement in his defence as to why action should not be taken against him on the findings of the report of the Enquiry Officer. He submitted his explanation stating that he could not attend to his duties due to health condition. The explanation submitted by him was found to be unsatisfactory because he had not applied for any leave nor had he informed about his illness to the authorities. He had unauthorisedly remained absent with effect from 5.9.2001 and had disobeyed the University directions to report for duty. Further, he was absent from duty with effect from 19.4.2003 without any notice. The Vice Chancellor has, therefore, accorded sanction to compulsorily retire him from the University service with immediate effect. Pursuant to the order passed on 13.5.2003, petitioner No.1 was relieved from his duties on his compulsory retirement with effect from 13.5.2003. He kept quiet for a period of two years and thereafter, made an application before the Registrar, Osmania University, Hyderabad for his reinstatement or to provide employment to his spouse in the university which was rejected vide Memo dated 29.6.2005. Challenging the same, the present writ petition is filed.

3. It is to be noted that pending the writ petition, petitioner No.1 herein died and thereafter, his legal representatives are brought on record as writ petitioner Nos.2 to

4. It is to be noted that petitioner No.1 was unauthorisedly absent to his duties from 5.9.2001. Though he was issued memo/show cause notice/final notice by the respondent University directing him to report for duty, he did not respond to any of them. On his request, he was permitted to join duty from 31.5.2002 (forenoon). But, he remained absent to his duties with effect from 3.8.2002 and again requested to permit him to join duty. He was permitted to join duty from 24.8.2002 (forenoon). The enquiry was concluded holding petitioner No.1 guilty of the charges framed against him. The explanation submitted by him was found to be unsatisfactory because petitioner No.1 had not applied for any leave nor had he informed of his illness to the authorities. He had unauthorisedly remained absent with effect from 5.9.2001 and had disobeyed the directions of the University. Further, he was absent from duty with effect from 19.4.2003 without any notice. Therefore, the Vice Chancellor accorded sanction to compulsorily retire petitioner No.1 from the University service with immediate effect. Since there is no illegality or irregularity in the procedure adopted

by the respondents and as the charges framed against petitioner No.1 were proved, the action of the respondents in compulsorily retiring petitioner No.1 from service and not agreeing to reinstate him into service or to appoint his spouse in the University cannot be found fault with.

4. As seen from the docket proceedings, there was no representation on behalf of the petitioners on 19.11.2015 and as such, the matter was directed to be listed under the caption “for dismissal” a week later. On 26.11.2015, it was represented that the learned counsel for the petitioners was unwell. As there was no representation on behalf of the petitioners, the matter was directed to be listed to today. Even today, there is no representation on behalf of the petitioners either in the morning session or in the afternoon session.

5. For all the aforesaid reasons, the Writ Petition is dismissed. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Date: 03.12.2015

AMD

THE HON’BLE SRI JUSTICE C.PRAVEEN KUMAR

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