

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.14808 of 2005

ORDER:

The writ petition is filed by the petitioner seeking for a direction to the 2nd respondent to pay salary and allowances to the petitioner for the period from January, 2003 to December, 2004, which has been illegally withheld, if necessary by declaring the action in issuing proceedings No.Rc.1217/A-2-2/2004-05, dated 31.03.2005 and letter dated 20.04.2005 as arbitrary and illegal, unjust and contrary to law.

Heard the petitioner-in-person and the learned counsel appearing for the respondents.

The facts in brief are as under:

The writ petitioner was appointed by the 2nd respondent, namely, A.P.Residential Educational Institutions Society (hereinafter referred to as “the Society”), as Trained Graduate Teacher (TGT)-English and was initially posted as such at Asifabad, Adilabad District and she worked there from 18.12.1989 to 05.10.1990. Subsequently, she was transferred to A.P.R.School (G), Vikarabad, Ranga Reddy District and she worked there from 06.10.1990 to 27.06.1992. Thereafter, she was transferred to QQSUR School (SB), Barkas, Hyderabad, where she joined on 28.06.1992. While she was working at Barkas, an incident said to have taken place where a parent of student made a complaint against the petitioner that she committed certain acts against the pupils, due to which, one student disappeared out of fear for more than 15 days i.e. from 16.12.2002 to 31.12.2002, and an enquiry was ordered against the petitioner and pending enquiry, the writ petitioner was surrendered by the 3rd respondent School to the 2nd Respondent-Society. This happened on 28.01.2003.

The contention of the petitioner is that she went to the 2nd respondent-Society where she was not allowed to make any representation, except stating that she has

to face the enquiry or get herself transferred out of Hyderabad. However, only on 19.08.2003, the 2nd Respondent-Society gave posting orders to the petitioner, posting her as a Teacher to A.P.R.School (G), Nagar Kurnool, Mahabubnagar District. She has not joined at Nagar Kurnool and more over challenged the said transfer order by filing W.P.No.6047/2004, and by order dated 07.12.2004, this Court allowed the said writ petition, directing that the petitioner be re-posted to the 3rd respondent School from where she was transferred. The order of this Court was complied with and the Secretary of the 2nd respondent-Society issued proceedings in Rc.1217/A2-2/2004-05, dated 29.12.2004, posting the petitioner to the School at Barkas.

The contention of the petitioner is that from January, 2003 when she was surrendered to 2nd respondent-Society till the end of December, 2004 when she was transferred back to the 3rd respondent-School, she has not been paid the salaries.

The contention of the respondents is that the transfer of the petitioner is on administrative grounds and she has neither joined in the transferred school nor reported before the Authorities and without working for the period of two years, the petitioner cannot claim salary for the said period. It is further submitted that during the said period of 2 years, she did not even apply for any leave to which she is entitled. It is not as though the petitioner was suspended or was in any way prevented from discharging her duties. It is further contended that out of her volition, the petitioner did not join and perform her duties during the period of 2 years and filed writ petition, and subsequently after joining in the 3rd respondent School, filed the present writ petition claiming salary for the period during which she did not perform duties.

Having considered the material on record and the documents submitted, what is manifest is that for the alleged acts of omissions and commissions on the part of the petitioner the 3rd respondent surrendered her to the Appointing Authority, the 2nd respondent-Society, which happened on 28.01.2003. Immediately, the 2nd respondent-Society ought to have given posting orders to the writ petitioner, but the 2nd respondent-Society did not do so. Admittedly, only in August, 2008 (19.08.2003) the 2nd respondent-Society has given posting orders to the writ petitioner, transferring her to Nagar Kurnool. From August, 2003 to December 2004 till

W.P.No.6047/2004 was disposed of, the writ petitioner has neither joined the School at Nagar Kurnool nor performed any duties. Therefore, the period from January, 2003 i.e. from 28.01.2003, on which date her services were surrendered by the 3rd respondent to the 2nd respondent-Society, till she was given posting orders, i.e. till 19.08.2003, the petitioner is entitled to claim salary, as she was made to wait without giving any posting orders.

After August, 2003 when the posting orders are given, the writ petitioner has not joined the School at Nagar Kurnool and for that, the 2nd respondent-Society is not responsible for paying any salaries. Therefore, from 19.08.2003 till the end of December, 2004, the petitioner cannot be said to be entitled to salary, since she has neither joined the School at Nagar Kurnool nor applied for any kind of leave for the said period.

In view of the above, the writ petitioner is entitled to salary for the period from 28.01.2003 to 19.08.2003 only.

The Writ Petition is accordingly allowed in part, to the extent, indicated above.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 26.11.2015

Dsr