

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.7903 OF 2015

Date:01.04.2015

Between:

Venkatachalam .. Petitioner

And

The Acharya N.G. Ranga Agricultural

University, rep., by its Registrar,

Rajendranagar, Hyderabad and others .. Respondents

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.7903 OF 2015

ORDER:

Heard.

The petitioner herein questions the order, dated 01.10.2014, passed by the respondent – University, wherein request of the petitioner for reinstatement was examined in negative.

The facts of the case, which are not in dispute, are that the petitioner was unauthorizedly absent for 12 years though he was provided employment under compassionate ground. The University states that after following A.P. CCA Rules, an order of dismissal from service for unauthorised absence was passed on 08.01.2002 with effect from the date of absence i.e., 11.01.1999. The petitioner thereafter sought reinstatement into service by making a representation, dated 15.04.2011. That representation was, however, rejected by the University by order, dated 25.03.2014. The petitioner questioned the said rejection in W.P.No.19188 of 2014 and brought to the notice of this Court that similar cases of other employees were considered by the University and based on that representation, this Court directed the University to consider the petitioner's further representation, dated 24.06.2014, and pass appropriate orders within six weeks.

In compliance with the said order, the impugned order, dated 01.10.2014, was passed, wherein the petitioner's request has been rejected. Questioning the same, the present Writ Petition is filed.

Learned counsel for the petitioner has very strenuously contended that the petitioner was never served with the dismissal order and that the cases of all other employees, who were similarly dismissed for unauthorised absence, were reconsidered and they were reinstated into service, but the petitioner alone is discriminated. He also contended that there is a serious doubt about the order of dismissal as claimed by the University as the impugned proceedings refers to the date of order as 08.01.2002, whereas the earlier rejection order refers to the date of dismissal as 15.02.2012 and submits that the petitioner's case deserves to be considered by the University and he deserves to be reinstated into service.

As the petitioner is a Class-IV employee, his case is required to be viewed with compassion, but if this Court looks at the facts and circumstances of the case,

there are several aspects, which mitigate against such compassion to be shown to the petitioner. Firstly, the petitioner abandoned the job and remained unauthorizedly absent for 12 years. Thereafter, he claimed that he suffered from psychiatric illness and filed representation for the first time on 15.04.2011, though he was dismissed on 08.01.2002. Thereafter, to ascertain the true fact, the petitioner was sent for examination by Medical Board, which certified that the petitioner does not suffer any sign or symptom suggestive of psychiatric illness as stated by the King George Hospital, Visakhapatnam, under certificate, dated 26.06.2013. After duly considering the said certificate, the University rejected the petitioner's request under order, dated 25.03.2014. As stated above, the petitioner questioned the same in the earlier Writ Petition and as per directions of this Court, the University considered the matter. The present impugned order specifically deals with the contentions regarding discrimination and it is expedient to note that one of the persons named by the petitioner was a Scientist who is given fresh appointment though she was unauthorizedly absent on account of ill health and so also the other person, by name Sri P. Ravi, who is Executive Engineer. The petitioner submits that those cases were considered by the University and so far as the petitioner, who is a last grade employee, is concerned, as the claim of psychiatric illness was not established by him, his case was rejected. The order of dismissal was never questioned by the petitioner till date and the petitioner was absent from 11.01.1999. Since petitioner claimed reinstatement into service after lapse of more than a decade, his case was not considered by the University and reinstatement was not granted.

Though learned counsel for the petitioner points out discrepancy in the dates of dismissal order as referred to in the impugned proceedings and as referred to in the proceedings dated 25.03.2014, it is necessary to notice that even in the proceedings, dated 25.03.2014 reference first cited is shown as 08.01.2002, which is same as shown in the impugned proceedings. Hence, that by itself is not sufficient to accept that there is no such dismissal order in existence. The discretion under Article 226 of the Constitution of India does not deserve to be exercised in favour of the petitioner.

Hence, the Writ Petition is dismissed at the stage of admission. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V. AFZULPURKAR, J

01.04.2015

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