

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.8848 OF 2002

ORDER:

This writ petition is filed seeking to issue an order or direction particularly, one in the nature of *Certiorari* calling for the records leading up to and including the communication letter under Ref.No.DCI/PA/I/79/2000/1286, dated 23.11.2000, retiring the petitioner on Voluntary Retirement Scheme (for short, "V.R.S.") and the proceedings under Ref.No.DCI/PA/4/257/2002, dated 27.2.2002, rejecting his application for reengagement, and to declare the same as illegal and arbitrary, and consequently, to quash the same and order his reengagement and continuance in the Corporation till the date of his superannuation.

2. Case of the petitioner is that when he was working as Deputy Manager (Personnel), Visakhapatnam in the respondent Corporation, he was denied promotion to the post of Manager on flimsy grounds and so, he filed W.P.No.5963 of 1997. Prior to that also, he was illegally transferred to Calcutta and his transfer was interdicted by the Civil Court. Taking into consideration that he was ventilating his grievances in a Court of law, he was transferred to Haldia in the month of May, 1997 as Deputy Manager vide order No.67/97, dated 26.4.1997, and was relieved from the Head Office on 28.4.1997 without even giving sufficient time despite the fact that his ill health requires prolonged and specialist treatment. Under inevitable circumstances, he remained at home to undergo medical treatment for which, he was referred to a Medical Board in K.G.H. to assess the genuineness of the sickness. The Medical Board, having examined the genuineness of his sickness, had advised further treatment for some more time. However, due to loss of pay, financial problems and

heavy pressure from the officials, he had no other alternative except to report at Haldia on 12.8.1997 leaving his family at Visakhapatnam. Even after completion of three years, he was not posted back. In the meanwhile, V.R.S. was introduced in the respondent Corporation under Circular No.18/2000, dated 24.8.2000. According to the said circular, the last date for submission of option was 23.11.2000. He had no intention to opt for voluntary retirement, as he was having ten years of service. But against his will and conscious, the Project Manager forced him to opt for V.R.S. as otherwise, he might faced another transfer to another Project Office at Kandla, Gujarat. The said threatening had further caused mental agony to him. On the last date for submission of V.R. application, he was pressurized and forced to sign on the V.R. application by the Project Manager against his wish and in fact, on the same day, his application was processed and the acceptance was also communicated to him on the same day. He was relieved on 27.11.2000. Even in case of some employees, who submitted V.R. applications on 23.11.2000 like the petitioner, the C.M.D. took seven to ten days time to accept and another seven to ten days to relieve them. The petitioner submitted a representation, dated 27.11.2000, requesting the respondent Corporation to reconsider the decision taken by them on his forced application seeking voluntary retirement and restore him into service, but the same was finally turned down by the respondent Corporation by its proceedings, dated 27.2.2002. Assailing the action on the part of the respondents in forcibly retiring him from service, the present writ petition is filed.

3. Sri P.B.Vijaya Kumar, learned counsel for the petitioner, submits that the petitioner was victimised for promotion to the post of Manager and so, he filed W.P.No.5963 of 1997; that the petitioner was frequently transferred from one place to another and he was made to approach the Court; that since the petitioner was ventilating his grievances legitimately in the Court of law, the respondent Corporation

had grievance against the petitioner and hence, he was forced to apply for V.R.S., that on the last date of submission of V.R.S. application, the petitioner was forced to sign on the application and on the same day, it was processed and acceptance was also communicated to him on the same day, and within few days, he was relieved whereas in the case of other persons, their applications were accepted after seven to ten days of their applying and they were relieved after seven to ten days thereafter.

4. Heard Sri V.V.Prabhakara Rao, learned Standing Counsel appearing for the respondent Corporation.

5. A perusal of the impugned proceedings goes to show that the respondent Corporation has considered the representation of the petitioner for withdrawal of V.R. application and it is categorically stated that all the applications received for V.R.S. on or before 23.11.2000 were processed and the acceptance of V.R. or otherwise of the competent authority was communicated to all the applicants either through fax or by letter on 23.11.2000. In the case of the petitioner also, the acceptance was communicated on 23.11.2000 by fax and it was indicated in the acceptance letter that the petitioner is likely to be relieved by 27.11.2000 and accordingly, on 27.11.2000, 14 employees including the petitioner were relieved on V.R. By the time of his relieving on 27.11.2000, no letter or fax requesting for withdrawal of V.R. was received at Head Office. Subsequent to his relieving on V.R., all the admissible amounts of Ex-gratia, Leave Encashment, Gratuity, Provident Fund etc., amounting to Rs.13,26,092/- were released and the same were accepted by him unconditionally. Even in the V.R. application, dated 23.11.2000, the petitioner had given an undertaking that he will not claim or make any representation for reinstatement into the services of the Corporation. Having accepted for V.R.S. and after it is accepted, petitioner cannot go back on the same. These are all disputed questions of fact which cannot be gone

into by this Court by exercising the powers under Article 226 of the constitution of India. In view of the above, I do not find any merit in the writ petition and the writ petition is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

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

JUSTICE A.RAJASHEKER REDDY

Date: 03.09.2015
AMD

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