

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.6645 OF 2006

ORDER:

Heard counsel for the petitioner and the standing counsel for respondents.

The petitioner prays for Mandamus declaring that the petitioner is entitled for leave as specified under the A.P.SEB Leave Regulations and other benefits with retrospective effect by considering the completion of probation as 28.01.2003.

The dates of joining, declaration of probation etc., of the petitioner are not in dispute. The controversy in the instant writ petition relates to the date on which the petitioner completed five years for promotion as Assistant Divisional Engineer (ADE). The case of petitioner is that the two spells of sanctioned leave availed by him shall be treated as Earned Leave (EL) and that Half Pay Leave (HPL) may not be considered as Extraordinary Leave (EOL) is the basis.

This Court, on 19.09.2008, passed the following interim order:

“There shall be interim direction to the respondents to consider the case of petitioner for promotion as Assistant Divisional Engineer taking into consideration of completion of probation as 28.1.2003 and pass appropriate orders as per law within a period of four weeks from the date of receipt of this order and communicate the same to the petitioner”.

It is not in dispute that in deference to the said interim order, the respondents promoted the petitioner as ADE.

Counsel for petitioner tried to persuade this Court by contending that the sanction of leaves by respondents is contrary to the request made by petitioner and if the leave is sanctioned and considered in the manner in which the petitioner requested, he would have completed five years by 2006 and accordingly he was eligible for consideration for promotion as ADE in 2006 itself. The standing counsel places reliance upon the stand taken in paragraphs 5 and 6 of the counter affidavit and the same read thus:

“I submit that in terms of Regulation 23(a) of APSEB Service Regulations Part-I and Regulation 16(a) (1) of APSEB Service Regulations Part III, it was informed that the petitioner was placed on probation for a period of two years on duty with effect from 29.01.2001. In Memo No.CGM(A)/DS(A)/AS(V&RT)/PO-A2/336/2005 dated 25.1.2006, the completion of probation orders were issued stating that the petitioner's probation commence on 29.01.2001 and completed on 28.01.2003. As on the date of Departmental Promotion Committee dated 23.3.2006, the petitioner has not completed five years service in the cadre of AEs/Civil as he has availed EOL for seventy three days from 18.03.2003 to 29.05.2003 and sixty eight days from 01.04.2005 to 07.06.2005. In terms of APSEB Regulations Part III, Annexure III, the AE/Civil is not recommended for promotion. Hence, the action taken is in order and legal.

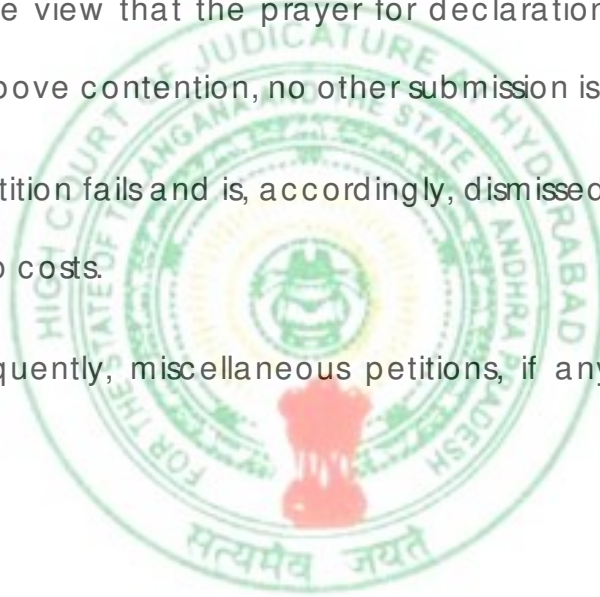
I submit that as per APSEB Leave Regulations once an employee completes probation and his services get regularized, he will be entitled for Earned Leave for thirty days and Half Pay Leave for twenty days per year. The petitioner's contention for conversion of EOL period as EL and HPL may not be considered as EOL has been sanctioned vide Memo No.SDE/O&M/Civil/Stage-I/VTPS/PRS/C7/F/D No.4392/03 dated 16.07.2003 and Memo No.CGM(A)/DS(A)/AS (A)/PO-F1/1321/2005 dated 29.07.2005, at his request in his representations dated

30.05.2003 and 8.06.2005 and once sanctioned leave cannot be changed or altered or converted and it shall be final. Therefore, the action of the respondents is correct and there is no deviation of Rules”.

The case of petitioner for retrospective conversion of nature of leave sanctioned was rightly rejected by the respondents and no exception could be taken for the reply given by the respondents in the counter affidavit. For the reason that the conversion of leave now asked for is not practicable and also that with the completion of five years, the petitioner was promoted as ADE, this Court is of the view that the prayer for declaration is unavailable. Except the above contention, no other submission is made.

Writ petition fails and is, accordingly, dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand closed.



S.V.BHATT, J

Dt.11.08.2016
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