

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.28918 OF 2014

ORDER:

Petitioner is a graduate in science and he applied to the post of Technical Assistant pursuant to a notification issued by the respondents. He was appointed on contract basis on a consolidated pay of Rs.4,000/- per month and posted at Mandal Parishad, Medipally vide proceedings dt.22.03.2006. The remuneration was subsequently enhanced to Rs.12,500/- per month. While working as such, he applied for leave on 13.02.2013 for 45 days and submitted a joining report on 26.03.2013 along with fitness certificate. He was allowed to join duty, by proceedings dt.13.04.2013 by the 1st respondent, at Keshavapatnam Mandal, pending ratification by the 3rd respondent. However, 1st respondent issued proceedings on 20.04.2013 keeping him out of contract for his negligence for disobeying his order dt.13.04.2013 and the petitioner was asked to submit his explanation within seven days. Petitioner submitted an explanation on 11.05.2013 stating that due to ill-health of his mother, he could not join duty pursuant to proceedings dt.13.04.2013.

Considering the said explanation, proceedings were issued by the 1st respondent on 18.05.2013 posting the petitioner at Bheemdevarapally Mandal, but the petitioner did not join duty thereafter because it was at a distant place. In these circumstances, the 1st respondent issued proceedings dt.23.05.2013 terminating the services of the petitioner.

2. Challenging the said proceedings, he filed W.P.No.28385 of 2013 and this Court by order dt.24.10.2013 in WP.MP.No.35241 of 2013 directed the 1st respondent to reinstate the petitioner with

liberty to post at any place of their choice. Pursuant to the said order, proceedings were issued on 12.11.2013 reinstating the petitioner into service as Technical Assistant and was posted to work at Raikal Mandal. Petitioner reported for duty on 14.11.2013 and since he got selection as a District Sales Executive in Manideepika Pharmaceutical Private Limited, Karimnagar, he submitted his resignation on 26.11.2013 requesting the 1st respondent to accept his resignation. When petitioner was about to join duty as Sales Executive, he met with an accident and he was advised bed rest for three months. As such, he lost the job of Sales Executive and he submitted representation on 10.03.2014 requesting the 1st respondent to permit him to join duty as Technical Assistant.

The 1st respondent addressed a letter on 17.05.2014 requesting the 2nd respondent to issue necessary orders on the representation of the petitioner dt.10.03.2014. Petitioner further states that after recovering from illness, he got job opportunities in other companies also. However, he could not join in other companies because of the inaction of the respondents and when the 1st respondent issued orders on 22.08.2014 accepting the resignation submitted on 26.11.2013, the present Writ Petition was filed.

3. A counter affidavit is filed by 1st respondent admitting the facts stated by the petitioner and further stating that the petitioner was reinstated into service on 12.11.2013; he was posted at Raikal Mandal and joined duty on 14.11.2013 and submitted his resignation on 26.11.2013. On submission of said resignation, the 1st respondent addressed a letter to the 2nd respondent intimating the submission of resignation and seeking its acceptance. The 2nd respondent informed the 1st respondent by proceedings

dt.04.02.2014 to take steps for accepting the resignation in accordance with law. When the petitioner submitted a representation on 10.03.2014 a report was submitted to the 2nd respondent on 17.05.2014 for further orders. The petitioner also submitted another representation before the 2nd respondent on 28.05.2014. The 2nd respondent issued a letter on 02.08.2014 rejecting the request of the petitioner and on the basis of the same, the 1st respondent issued proceedings on 28.08.2014 accepting the resignation of the petitioner with effect from 26.11.2013.

4. The facts in the case are not in dispute. The recalcitrant behaviour of the petitioner was condoned on earlier occasions and he was given opportunity to resume duties. Even, when the petitioner did not join duty on one occasion, and his services were terminated, he filed W.P.No.28385 of 2013 and by virtue of the interim order in the said Writ Petition, an order of appointment was issued posting him in Raikal Mandal by proceedings dt.12.11.2013. Petitioner joined on 14.11.2013 but submitted his resignation on 26.11.2013. After submission of resignation, the petitioner never worked. The 1st respondent took some time in correspondence for accepting the resignation and when the 2nd respondent communicated his decision on 02.08.2014, the 1st respondent passed an order on 28.08.2014 accepting the resignation of the petitioner. The delay occurred was in correspondence between the 1st respondent and the 2nd respondent. In the meanwhile, since the petitioner lost his appointment, which he got in another company, he filed the present Writ Petition stating that the acceptance of resignation with retrospective effect is bad in law. In fact, after submission of resignation, the petitioner never attended to duties. The communication of acceptance is of no consequence so far as the

petitioner is concerned, in view of his non-reporting to duty.

5. In the circumstances, it cannot be said that the acceptance of resignation of the petitioner by the 1st respondent on the orders of the 2nd respondent is bad in law.

6. The Writ Petition is accordingly dismissed. No order as to costs.

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

A.RAMALINGESWARA RAO, J

24th August, 2016.
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