

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.5176 of 2016

ORDER:

The petitioner was appointed as a Clerk-cum-Cashier in the respondent Bank on 19.11.1988. She applied for leave from 04.07.2001 and the leave was sanctioned from 04.07.2001 to 06.01.2002. Thereafter, she went to U.S.A. She states that she took treatment from 04.06.2002 to 22.07.2010. After recovery from illness, she submitted a representation on 10.12.2010, enclosing the copy of Doctor's Certificate and requested permission to join duty. It was followed by another representation after five years on 10.02.2015, which was followed by a notice through her counsel on 22.08.2015. When there was no response, the present writ petition was filed.

A counter affidavit is filed on behalf of the respondents stating that a Memo was issued on 04.06.2002 to the petitioner stating that her continuous absence from 06.01.2002 was highly irregular and contravention of the service rules and the petitioner was advised to report for duty along with medical certificates within 30 days. Though the petitioner received the said notice, she failed to report for duty. She did not pay one month salary also in lieu of notice. The petitioner suppressed all those facts and filed the present writ petition. A communication was sent to the petitioner on

21.02.2003 treating her absence as voluntary vacation from service with effect from 06.01.2002 and the petitioner was called upon to pay one month pay and allowances in lieu of the notice. Though the petitioner is aware of the said proceedings, she did not take any action. However, the petitioner submitted an application for payment of Provident Fund on 12.03.2015 with incomplete particulars. In view of the same, the said application was not forwarded to the Provident Fund Office. The petitioner has not applied for gratuity in the prescribed format, and the respondents are ready to ensure the payment of gratuity to the petitioner as per her eligibility, provided she submits her application in the prescribed format.

No reply affidavit is filed disputing the said averments made in the counter affidavit by the respondents.

In the circumstances, it has to be construed that the petitioner voluntarily left the services of respondents with effect from 06.01.2002. Even after leaving the service of respondents, the petitioner has not taken any action for the last fourteen years. However, she is entitled for payment of gratuity and other benefits, if any. Hence, the relief sought for by the petitioner cannot be granted, but liberty is given to the petitioner to approach the respondents for settlement of dues, if any, including the gratuity, provided she furnish the required particulars in the prescribed format within four (4)

weeks from the date of receipt of a copy of this order. On receipt of which, the respondents are directed to take further action in accordance with law.

With the above observations, this Writ Petition is disposed of. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

19.09.2016
MVA

