

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 3789 OF 2006

ORDER:

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Heard.

The present Writ Petition came to be filed seeking issuance of writ of certiorari calling for records in I.D.No.226 of 2001 on the file of the Labour Court-I and quash the same.

The petitioner herein was appointed in the Electricity Department in the year 1987 as Helper (Jr.Linemen) at Uppal Sub-Station. Subsequently, in the year 1995, he was transferred to the second respondent division and has been performing his duties to the utmost satisfaction of his superiors. It is stated that in the month of April, 1995, the petitioner fell sick and could not attend to his duties with effect from 25.04.1995. The same was intimated to the respondents and he further claims to have applied for medical leave. It is stated that the petitioner became seriously ill and as such he was referred to N.G.Hospital, Charminar wherein it was detected that there was a renal failure. He was discharged from the hospital in the month of January, 1997. While taking treatment at N.G.Hospital, the petitioner made an appeal to the first respondent, who is Chairman, APSEB, for grant of funds for his treatment. There was no response from the authorities. After discharge from the hospital, he was advised to take bed rest for atleast six months but due to financial problems, he could not take rest, thereby his recovery got prolonged. After recovering from the sickness, the petitioner reported to his duties in the month of December, 1998 before the second respondent with whom he was

working earlier. But, however, respondents did not give proper response and also did not issue any re-posting orders. A show cause notice came to be issued on 08.03.1999 with regard to his unauthorized absence and also sought for explanation for the same. But, without considering the same, the petitioner was terminated from his services orally with effect from 30.03.1999. Challenging the same, he filed I.D.No.226 of 2001 before the Labour Court-I. During the course of trial, WW-1 was examined on behalf of the petitioner therein and he also got marked Exs.W1 to W5. On behalf of the respondent therein MW1 was examined and Ex.M1 were got marked. The Labour Court after considering the evidence on record, found that the I.D. raised by the petitioner was premature since there was neither an order of dismissal nor removal of the petitioner from service and accordingly rejected the same.

Challenging the same, the present Writ Petition came to be filed seeking to set aside the order of the trial Court.

Learned counsel for the petitioner herein mainly submits that in the absence of any order terminating the services of the petitioner, the action of authorities in not permitting him to join the services is highly illegal. On the other hand, learned counsel for the respondents herein stated in the counter that disciplinary action was initiated against the petitioner by issuing memo dated 08.03.1999 calling for explanation as to why action should not be taken against him. It is stated that in the absence of any explanation, the third respondent referred the matter to the second respondent for further action in the matter. But the counsel could not place any material on record showing terminating of the services of the petitioner and at the same time he is also not in a position to place any material with regard to enquiry said to have

been conducted pursuant to the notice issued. In the absence of any such material being produced, it is difficult to hold that the petitioner was really terminated. But the fact remains that the petitioner was absent to his duties for a considerable period of time and a show cause notice was also issued to the petitioner asking him to explain as to why he was absent for a pretty long time.

On 17.12.2015, the counsel for the petitioner took time to advise his client to make a representation to the authorities expressing his willingness to work in the absence of any order of termination being passed. It is stated that the petitioner made a representation to the authorities on 18.12.2015, but till date, no order has been passed on the said representation.

In view of the above circumstances and having regard to the fact that no order of termination is placed on record, the respondents shall pass appropriate orders on the said representation by taking into consideration the above facts, in accordance with law, at the earliest, preferably within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No costs.

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

JUSTICE C. PRAVEEN KUMAR

28.01.2016
vhb