

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**W.P.No.32244 of 2016****ORDER:**

Heard the learned counsel for the petitioner and Sri G.Bhaskar, learned counsel for the respondent Nos.3 and 4.

2. The petitioner was initially appointed as Technical Inspector, Grade-II in AP Schedule Caste Finance Corporation Limited on 16-01-1986. On 18-07-2007, he was sent on deputation to the Rajiv Vidya Mission (SSA). He worked there up to 31-06-2013. He was then repatriated to his employer which by 2013 had been merged with 2nd respondent Corporation.

3. Petitioner contends that respondent Nos.3 and 4 had not issued Last Pay Certificate (LPC) in spite of his special requests. Therefore petitioner could not receive salary and was put to considerable financial difficulty. Petitioner contends that the default on the part of the respondent Nos.3 and 4 for more than 3 years 7 months in sending the LPC to 2nd respondent is arbitrary, illegal and unconstitutional and he seeks that a direction be given to the respondent Nos.3 and 4 to send the LPC to the petitioner through the 2nd respondent. He further states that he is also entitled to salary from the period 01-03-2013 till 31-06-2013 where he worked in the Rajiv Vidya Mission (SSA).

4. Learned counsel for the petitioner placed reliance on the order passed by this Court on 15-02-2012 in W.P.No.31294 of 2011.

5. In the counter affidavit filed by respondent Nos.3 and 4, it is contended that the petitioner had worked in the Rajiv Vidya Mission (SSA) from 18-07-2007 to 30-06-2013 and he was allotted the area of Madakasira Constitution to monitor civil works to APSSA, Ananthapuram. It is alleged that even though petitioner was relieved on 30-06-2013, he did not handover the charge of the works which was executed by him to his successor; that even today, several works are pending and the estimates and measurement books of the works executed by the petitioner were not handed over by the petitioner to his successor. It is alleged that the contractor who had completed the construction work was pressing for payment since payments were not made since 2013 to him. It is alleged that the petitioner was informed to submit all the records in full shape and obtain the LPC. But the petitioner did not come forward to settle the pending issues in the AP Sarva Siksha Abhiyan (SSA), Ananthapuram. It is contended that if LPC is issued to the petitioner, he may not come forward to settle the issues at all which would cause grave prejudice to respondent Nos.3 and 4.

6. Along with the counter affidavit, no communication sent by respondent Nos.3 and 4 to the petitioner or to the petitioner's present employer i.e. 2nd respondent has been enclosed. There is an office note endorsement made on 29-11-2016 referring to the pending

works in the Rajiv Vidya Mission (SSA) which were under the control of the petitioner and it is stated that the LPC would be issued after obtaining all the records from the petitioner in full shape. This endorsement is made two months after the Writ Petition is filed and obviously to create a record to justify non-issuance of LPC to the petitioner.

7. In W.P.No.31294 of 2011 relied upon by the petitioner, the facts are some what similar to the facts of the present case. A person working as Deputy Executive Engineer in 2nd respondent-Corporation was sent on deputation to work in the Rajiv Vidya Mission (SSA), Ananthapur. On 06-12-2007, he was repatriated to 2nd respondent on 13-12-2010. As in the present case, LPC of that petitioner also was not sent by respondent Nos.3 and 4 to 2nd respondent. Therefore he filed the said Writ Petition seeking a declaration that the action of the Rajiv Vidya Mission (SSA) in not sending his LPC and his Service Register to 2nd respondent is illegal and arbitrary.

8. Respondent Nos.4 and 5 contested the said Writ Petition.

9. The Court held that once the petitioner, who was on deputation to work in the office of the Rajiv Vidya Mission (SSA), was repatriated to his parent department i.e. 2nd respondent Corporation, he is entitled to his monthly salary, without which he cannot be expected to survive and that withholding of LPC and

Service Register by Rajiv Vidya Mission (SSA) was not justified by any ground. Adverting to the claim of the Rajiv Vidya Mission (SSA) against the petitioner therein, the Court held that it had liberty either to requisition the services of the petitioner so as to enable the completion of the works by seeking his deputation for further time or request the parent department of the petitioner to take appropriate action against the petitioner for any acts or omissions done by the petitioner while on deputation with the Rajiv Vidya Mission (SSA) or to take such other action as is permissible under law. But withholding of LPC and SR of the petitioner with a view to deny monthly salary cannot be countenanced.

10. It is not disputed that the order in W.P.No.31294 of 2011 has not been questioned by the respondent by way of filing an appeal though the judgment was delivered on 15-02-2012.

11. Further the learned counsel for the respondent Nos.3 and 4 has not been able to point out any provision in law which entitles the respondent Nos.3 and 4 to withhold the LPC of the petitioner on the ground that he had not rendered full account for his services in the APSSA when he worked on deputation with the Rajiv Vidya Mission (SSA).

12. A strange plea is raised by the learned counsel for respondent Nos.3 and 4 that the petitioner could not be contacted to send the LPC or to send a demand to submit all the measurement

books etc. for the works executed under his control when he was on deputation with the Rajiv Vidya Mission (SSA). Since the respondent Nos.3 and 4 are aware where the petitioner is employed currently i.e. with the 2nd respondent and the address of the 2nd respondent is also known to them, nothing prevented respondent Nos.3 and 4 from addressing a letter to the petitioner's current employer-2nd respondent. But nothing in this regard has been done.

13. In view of the above reasons and in view of the order dt.15-02-2012 in W.P.No.31294 of 2011, the Writ Petition is allowed and the respondent Nos.3 and 4 are directed to forthwith send the LPC of the petitioner to 2nd respondent. Liberty is granted to respondent Nos.3 and 4 to act in accordance with law with regard to settlement of issues pending between them and the petitioner. The petitioner also cannot be denied wages for the period from 01-03-2013 to 30-06-2013 for the duration when he was employed with respondent Nos.3 and 4 and within four weeks from the date of receipt of a copy of this order, respondent Nos.3 and 4 shall pay salary with interest at 9% per annum from the date it became payable till the date of actual payment. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 02-12-2016
kvr