

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 23318 of 2000

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, by the petitioner, seeking a writ of mandamus to declare the action of the 2nd respondent in passing the orders dated 10.11.1997 as illegal and arbitrary. A consequential direction is also sought to the 2nd respondent to treat the period from 30.10.1997 to 31.05.2000 as in service.

Heard Sri M. Manohar Reddy, learned counsel for the petitioner, the Government Pleader for Agriculture appearing for the 1st respondent, and Sri Banda Prasada Rao, learned standing counsel for A.P. Agro Industries Development Corporation, appearing for the 2nd respondent.

It is the case of the petitioner that he was appointed as Engineering Supervisor in the Agriculture Department on 28.11.1956. Later on, he was transferred, on deputation, to the 2nd respondent-Corporation with effect from 01.07.1968. When the Agriculture Department issued a memo dated 04.03.1986 to report to the Department, while exercising his option to stay in the 2nd respondent-Corporation, the petitioner filed W.P.No.8289 of 1986 which was allowed with a direction to the Corporation to readmit him in the Corporation with continuity of service. However, the Corporation treated the service with effect from 15.04.1976, giving a go bye to the

orders passed in the said writ petition. While so, the Corporation issued a Circular Notice dated 01.10.1997 introducing a scheme to opt for voluntary retirement. In pursuance of the same, the petitioner opted for voluntary retirement, but subsequently, withdrew the same by sending a telegram on 09.11.1997 as well as submitting a representation dated 10.11.1997 to the 2nd respondent. The same is still pending. Surprisingly, the 2nd respondent issued proceedings dated 10.11.1997 accepting his application for voluntary retirement instead of rejecting his application. Aggrieved by the same, he filed the present writ petition.

Learned counsel for the petitioner submits that as per the norms laid down by the Hon'ble Supreme Court in Civil Appeal No.4437 of 2009 and batch of cases, dated 29.08.2016, employees can request for withdrawal of their option for voluntary retirement before their applications are accepted. It is contended by the petitioner that since the petitioner herein sent a telegram on 09.11.1997 and submitted application on 10.11.1997 withdrawing his option, the impugned proceedings are liable to be set aside.

The 2nd respondent-Corporation filed a counter stating that the Corporation had issued Circular No.Pers/AMII/JM/9533/93 dated 11.07.1997 duly enclosing an application for voluntary retirement to be submitted by 31.07.1997 by any of the employee willing for the retirement under the said scheme and the last date for submitting applications was extended from time to time till 27.10.1997. In

response to the said Circular, the petitioner submitted application expressing his willing for voluntary retirement and the Corporation accepted the same with effect from 01.11.1997 vide proceedings No.Pers/AM(P)II/11443/97 dated 10.12.1997. It is further stated that when once the request for voluntary retirement scheme has been accepted by the Corporation, it shall not be open to the employee to withdraw/modify the request of the employee. It is also stated that in his representation dated 28.11.1997 the petitioner requested the Corporation for settlement of his benefits as applicable to him, but not raised any objection for accepting his voluntary retirement application.

Having considered the rival submissions made by the learned counsel on both sides and in view of the facts and circumstances of the case, I am of the view that the contention of the petitioner that he has already withdrawn his option for voluntary retirement cannot be sustained, since the Corporation accepted the application of the petitioner for voluntary retirement with effect from 01.11.1997 vide proceedings No.Pers/AM(P)II/11443/97 dated 10.12.1997 and as the petitioner himself volunteered to accept the terminal benefits and the 2nd respondent has already paid the same. Therefore, I see no merits in the writ petition to interfere with the impugned order. The Writ Petition is, accordingly, dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall also stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

6th December, 2017
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No. 23318 of 2000
(dismissed)

6th December, 2017

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