

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.38541 of 2013

Date : 24.3.2017

Between:

Ponnuri Kiran Kumar S/o P Sundar Rao
R/o 2118/B, BHEL,
Hyderabad

Petitioner

And

Hindustan Fluorocarbons Limited
303, Basheerbagh, Hyderabad

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner was appointed as Management Trainee (Projects Stores) by order dated 28.8.2012 on a consolidated pay of Rs.22,000/- per month and he joined the duty on 7.9.2012. The service agreement executed by the petitioner was for a period of two years commencing from 1.9.2012. It appears, petitioner did not report to duty from 13.9.2012 and having waited for considerable time and since petitioner was absenting from duty for long time, by order impugned dated 30.11.2013, his services were terminated. This termination order is under challenge in this writ petition.

2. Learned counsel for petitioner contends that petitioner was suffering from spondylitis for long time, disabling him to work, therefore he was not attending to duty. He submits that his absence from duty was on health grounds and was not deliberate and willful absence. He further submitted that on 22.5.2013, petitioner made an oral request informing about his illness, therefore, it cannot be treated as unauthorized absence. He therefore submits that termination is wholly illegal.

3. Basic facts are not in dispute. Petitioner was appointed as Management Trainee on 28.8.2012 and he reported to duty on 7.9.2012 and absented from duty from 13.9.2012. Even assuming that on 22.5.2013 petitioner orally represented the Managing Director, the fact remains that by that date also he was absented for almost 8 months. A Management Trainee cannot be expected to continue him in service, having absented from duty for such a long period, within a week of his joining. As per the terms of agreement, he was supposed to be on duty and complete the training period within the time granted, uninterrupted, except for leave sanctioned by the competent authority. Thus, such absence cannot be treated as a minor lapse.

4. Learned counsel for petitioner sought to contend that this termination is without prior notice and if notice was issued he would have satisfactorily explained the reasons for his absence. Ordinarily, for regular employees, absence from service cannot automatically result in removal, unless the absence is held to be willful and deliberate without just cause or reason. In the instant case, petitioner was only a management trainee on stipend basis, therefore, he cannot be equated with regular employees. The terms of agreement clearly stipulated rendering uninterrupted service. Further more, his absence was for very long period, immediately on joining the duty. Therefore, on that specious ground termination order cannot be set aside, more over, when it is in accordance with agreement. Further, it is informed by learned standing counsel for respondent that the employer company has become sick. Having regard to these facts, no relief as sought for can be granted. Accordingly, the writ petition is dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 24.3.2017
TVK

P NAVEEN RAO,J

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