

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 25404 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 Memorandum No.CBIT/1/Adm/98, dated 15.10.1998, issued by the 3rd respondent-Institute, as confirmed by the appellate authority vide G.O.Ms.No.180, dated 04.06.1999, as illegal and arbitrary. A consequential direction is also sought to the respondents to reinstate the petitioner into service with all consequential benefits.

2. Heard Ms. K. Udaya Sri, learned counsel for the petitioner, and Mr. C.V. Mohan Reddy, learned standing counsel for Chaitanya Bharathi Institute of Technology, appearing for the 3rd respondent.

3. The case of the petitioner, in brief, is as follows:

i) He was appointed as Library Assistant in the year 1981, in pursuance of Advertisement No.1/81 issued by the 3rd respondent-Institute and, later, promoted as Librarian on 01.08.1988. On his representation, in the year 1990 he was accorded permission to pursue MCIS course through Institute of Correspondence Education, University of Madras, but he could not complete the course, due to pressure of work in the 3rd respondent-Institute. As he wanted to appear for the examinations in the year 1994, he applied for earned leave to the 3rd respondent-Institute from 17.05.1994 to 21.05.1994

and he was granted earned leave for the said period and also extra ordinary leave from 22.05.1994 to 15.09.1994. Thereafter, he extended the leave from time to time vide leave applications dated 12.09.1994 and 28.02.1995 for the period from 16.09.1994 to 28.02.1995 and from 01.03.1995 to 31.12.1995 respectively.

ii) While so, he was issued a charge memo dated 25.04.1996 on the allegation that he was unauthorizedly absent from duty from 16.09.1994, for which he submitted explanation on 12.05.1996. Subsequently, an enquiry committee was constituted and the committee had conducted enquiry without issuing any notice to him. He was issued an enquiry report and directed to submit explanation to the said report. Though he submitted explanation, without considering the same, the 3rd respondent-Institute issued a show-cause-notice of removal from service vide memo dated 11.07.1997, for which also he submitted explanation on 25.07.1997. Thereafter, the 3rd respondent-Institute removed him from service vide memorandum dated 15.10.1998. Questioning the same, he preferred an appeal to the Principal Secretary to Government, Education Department, but the same was rejected vide G.O.Ms.No.180, Education (EC.2) Department, dated 04.06.1999. Aggrieved by the order of removal as confirmed by the appellate authority, he filed the present writ petition.

4. Learned counsel for the petitioner submits that the age of the petitioner at the time of filing of the writ petition was 50 years and, by this time, he must have attained the age of superannuation and, therefore, his reinstatement cannot be ordered at this length of time, that the petitioner rendered service in the 3rd respondent-Institute from 1981 till he was removed from service on 15.10.1998, and that, therefore, ends of justice would be met, if a direction is issued to the 3rd respondent to settle the service benefits of the petitioner for the service he had rendered. Learned counsel for the 3rd respondent-Institute submitted that the request of the petitioner may be considered, as per the rules and regulations of the 3rd respondent-Institute.

5. Having considered the submissions of the learned counsel for the petitioner as well as the learned counsel for the 3rd respondent-Institute and in the facts and circumstances of the case, the Writ Petition is disposed of, with a direction to the 3rd respondent-Institute to release the service benefits of the petitioner for the service rendered by him in the 3rd respondent-Institute, within a period of two (2) months from the date of receipt of a copy of this order.

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

ABHINAND KUMAR SHAVILI, J

29th November, 2017
cbs

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WRIT PETITION No. 25404 of 2000
(disposed of)

29th November, 2017

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