

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 18989 of 2006

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in not taking any steps to reinstate the petitioner in respondent No.3 society with all consequential benefits like seniority, service etc. as illegal and arbitrary; and consequently direct all the respondents to implement the final report.

2) The averments in the affidavit filed in support of the writ petition would show that the petitioner joined in third respondent society as clerk on 01.07.1992 and has been discharging his duties diligently to the satisfaction of his superior officers. In the year 2001 there was an audit inspection in which the petitioner was asked to show the records. All the records were verified by the competent authority and were satisfied. On 17.04.2001 the petitioner was asked to stop attending the work stating that his services are no longer required. In the month of June, 2003, the petitioner was issued work memo directing him to discharge the functions like computerization etc. and subsequently the petitioner was not allowed to sign in the register. In the year 2005, the petitioner made a representation. An enquiry was conducted, explanation was called for and final report was submitted on 09.12.2005. On 16.12.2005, the Divisional Officer issued proceedings directing respondent No.3 to pay leave salary,

duty salary, arrears of salary, gratuity if the petitioner not reinstated into service. It was further recommended that subsistence allowance also be paid from 01.01.2004. In spite of the said proceedings, no action was taken by the respondent authorities. The petitioner made representations dated 05.01.2006, 09.02.2006 and 21.02.2006. Subsequently the Divisional Co-operative Officer issued proceedings dated 23.02.2006 as to why compliance report has not been submitted. In spite of the said proceedings no action has been initiated, which lead to filing of the present writ petition.

3) Respondent Nos.1 and 2 filed counter denying the averments made in the affidavit filed in support of the writ petition. It is stated in the counter that the then District Co-operative Officer, Guntur vide his letter dated 23.04.2005 addressed to the Divisional Co-operative Officer, Guntur stated that the petitioner has worked as clerk from 01.09.1992 to 20.07.2003 and from 21.07.2003 he has been absconding from duties but he made a representation for payment of salary, arrears of salary and reinstatement into duty. Pursuant to the same, the Divisional Co-operative Officer, Guntur, addressed a letter to the Sub-Divisional Co-operative Officer, Guntur directing him to conduct inquiry and submit a report. The Sub-Divisional Co-operative Officer, Guntur, by recording the statement of the petitioner on 18.06.2005 but without enquiring the President of the Managing Committee or any other person connected with the society, submitted a report stating that the petitioner is entitled to Rs.1,18,260/- towards

arrears of salary and gratuity for five months of last basic pay and also stated that the Management acted against the bye-laws and contrary to the Rules. Hence, the Divisional Co-operative Officer directed the President of the Society to implement the report. Thereafter the third respondent replied stating that the petitioner absconded from 09.06.2003 onwards and the General Body conducted on 17.08.2003 passed a resolution to dispense with the services of the petitioner from the date of absconding. Since then his whereabouts are not known.

4) At the time when the matter is taken up for hearing, Smt. Bobba Vijaya Lakshmi, learned counsel appearing for respondent No.3 submits that an enquiry was conducted against the petitioner, in which he participated by submitting an explanation. Later, the Enquiry Officer submitted his report on 18.05.2012, pursuant thereto a show-cause notice was also issued, but further action could not be taken in view of the stay granted by this Hon'ble Court.

5) Sri K.S.Murthy, learned counsel appearing for the petitioner would submit that since the petitioner has participated in the enquiry proceedings, he may be permitted to avail all the remedies available under law.

6) Accordingly, the writ petition is disposed of, giving liberty to the petitioner to avail all the remedies available under law, in case the order goes against him. There shall be no order as to costs.

7) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.01.2017  
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