

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.2573 OF 2003 & 16959 of 2002

COMMON ORDER:

W.P.No.2573 OF 2003

The case of the petitioner is that he was appointed by the 1st respondent in June, 1983 and was asked to serve with the 2nd respondent which is a union, affiliated to the 1st respondent Federation. As such petitioner was serving the 2nd respondent in terms of such deputation. While so, petitioner along with others filed W.P.No.24907 of 1996 seeking to declare him as the employee of the 1st respondent and the said writ petition was disposed of observing that the petitioner and others ceased to be the employees of 1st respondent and directing the respondents 1 and 2 to pay salary, promotions and other service benefits on par with the other employees of the 1st respondent without any discrimination. Against the same, Writ Appeal No.798 of 2000 was filed and the same was dismissed. Thereafter, though petitioner was promoted as Deputy Manager on 23.07.2001, he was not granted certain monetary benefits. After filing of the above writ petition, a charge memo dated 22.04.1998 was issued to the petitioner and in pursuant to the same, enquiry officer was appointed to conduct enquiry. During enquiry, the petitioner was placed under suspension and increments were also stopped. After conducting enquiry, petitioner was exonerated from all the charges and was sent to Nuzuvid Area office to set right the matters there and was also directed to pay the increments which were stopped earlier. On 19.04.2002, petitioner made a representation to the 1st respondent stating the he was not

paid salary for the month of March, 2002, not paid the leave encashment for the last 10 years and ex-gratia during 1995-96. Petitioner also made another representation on 26.06.2002. While that being so, petitioner received a notice from the 2nd respondent vide letter No.GU/P&A/Admn./PF/38/83/6104 dated 10.08.2002 with the very same charges which were earlier framed. Against the same, the petitioner filed W.P.No.16959 of 2002 and this Court vide order dated 11.09.2002 granted interim stay, pending further orders. On 11.02.2002, petitioner received a letter from the 2nd respondent stating that show cause notice dated 10.08.2002 issued to him is a defective one and therefore the same is withdrawn and a further course of action will be initiated. Petitioner once again received show cause notice dated 05.02.2003 from the 2nd respondent repeating the very same charges which were earlier framed. Aggrieved by the same, the present writ petition is filed.

No counters are filed in both the writ petitions.

Learned counsel for the petitioner submits that in pursuant to the charge sheet dated 22.04.1998, enquiry was conducted and petitioner was exonerated vide order dated 22.06.1998. Again a show cause notice dated 10.08.2002 was issued calling upon the petitioner to explain why he should not be removed from service and why the pecuniary loss of Rs.2,81,377/- should not recovered from him. But the said show cause notice was withdrawn on 11.10.2002. He also submits that since the impugned show cause notice is issued on the self same charges, enquiry cannot be conducted again and again. He further submits that when petitioner filed W.P.No.24907 of 1996, petitioner was declared as the employee of the 1st

respondent, which was confirmed in W.A.No.798 of 2000. As such, the 2nd respondent has no power to issue show cause notice for conducting enquiry in case of the petitioner. In support of his contentions he relied on judgment reported in ***Y.Sundara BABu v. Andhra Bank, Saifabad, Hyderabad ad others***¹.

Learned counsel for the 1st respondent submits that petitioner's request for VRS was accepted and amounts were paid accordingly.

On the other hand, learned counsel for the 2nd respondent submits that since the petitioner is working in 2nd respondent organization, they have power to initiate disciplinary proceedings. He also submits that since the show cause notice dated 10.08.2002 issued earlier was a defective one, the present show cause notice was issued and if petitioner is aggrieved by the same, he can challenge the same and raise objections before the authorities. As such, writ petition cannot be entertained at this stage.

The assertion of the petitioner is that charges leveled against the petitioner were dropped vide proceedings dated 22.06.1998 is not disputed by the learned counsel for the respondents by filing counter. Even in the present impugned show cause notice there is no indication why it is issued with the very same charges. As no information is provided to the 1st respondent, it has accepted the representation of the petitioner dated 25.08.2007 requesting for VRS and paid the amounts while deducting some amounts. The present writ petition is filed for recovery of the amounts which goes to show that the 2nd respondent has not given intimation to the 1st respondent about disciplinary proceedings. Moreso, W.P.No.16959

¹ 2010 (6) ALD 145

of 2002 is filed challenging the show cause notice dated 10.08.2002 and the same is pending. Since the 1st respondent has already accepted the VRS of the petitioner and released the amounts, the question of continuing the disciplinary proceedings at this stage does not arise. Even if it is accepted that petitioner is on deputation, still the 2nd respondent has power to initiate disciplinary proceedings.

In view of the same, the contention of the learned counsel for the petitioner that the 2nd respondent has no power to initiate disciplinary proceedings cannot be accepted. Since there is no information to the 1st respondent, the 1st respondent accepted VRS of the petitioner and petitioner retired, as such, there is no reason for continuing the disciplinary proceedings, that too at this point of time.

In view of the above facts and circumstances, this petition is allowed. However, the petitioner is at liberty to work out his remedies in respect of any dues from the 1st respondent. No costs.

W.P.No.16959 OF 2002

Since W.P.No.16959 of 2002 is filed challenging the show cause notice dated 10.08.2002 and as the same is already withdrawn vide letter dated 11.02.2002, nothing survives for adjudication in this writ petition. Hence W.P.No.16959 of 2002 dismissed as infructuous.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

