

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.11281 of 2008

ORDER:

This writ petition under Article 226 of the Constitution of India is filed seeking verbatim the following relief:

“... to issue an appropriate writ, order or direction more in the nature of Writ of Mandamus, declaring the Impugned Memo NO.GM (Per)/AS (Per)/PO (DC-II)/86-C6/06, dt.12.5.2008 issued by the Chairman and Managing Director A.P.C.P.D.C.L. Hyderabad and its connected Memo. No.DE/O/KNL/JAO/Adm.E2/D.no.48/06, DT.24.7.06 issued by the Divisional Engineer, Operation, Kurnool as illegal, arbitrary, unjust, violative of Articles 14, 16 and 21 of the Constitution besides being opposed to all canons of equity, justice and fair play and consequently hold that the Petitioner is entitled to be reinstated into duty as Assistant Lineman on the basis of Judgment of the Hon'ble Supreme Court in S.L.P. (Cr.) No.220/2007, dt.4.1.20087 with all consequential benefits and pass such other order or orders as are deemed fit and proper.”

2. I have heard the submissions of Sri D.Linga Rao, learned counsel for the petitioner, and of Smt.J.Koteswari Devi, learned Standing Counsel for respondent Nos.1 to 3.

3. At the hearing, the learned counsel for the petitioner brings to the notice of this court the following facts:

The petitioner, who was working as Assistant Lineman, had a matrimonial dispute with his wife and was involved in a criminal case for the offence punishable under Section 498A of the Indian Penal Code. On his arrest and remand to judicial custody for the period from 05.06.1999 to 08.06.1999 pursuant to the orders passed by the Judicial Magistrate of First Class in connection with the said criminal case, he was suspended from service with effect from 05.06.1999. Later, on his conviction for the said offence in C.C.No.158 of 1999, he was dismissed from

service. His appeal (Crl.A.No.241 of 1999) was dismissed by the IV Additional Sessions Judge, Kurnool, his revision in Crl.R.C.No.363 of 2001 was dismissed by this court. Later, the matter ended in a compromise before the Supreme Court. In view of the said compromise and acquittal of the petitioner in the criminal proceedings, he was reinstated into service by order dated 08.12.2008 and was posted in Central Section, Kurnool, and accordingly he joined duty, on 10.12.2008. On his acquittal in the criminal case, that is, after the compromise of the matter before the Supreme Court, the present writ petition is filed, when he was not reinstated into service.

3.1 This court, on 06.09.2008, granted interim direction to the respondents to consider the case of the petitioner for reinstatement into service as Assistant Lineman in view of the criminal proceedings culminating in compromise before the Supreme Court. Therefore, as noted supra, the petitioner is reinstated into service. However, while reinstating into service, the Divisional Electrical Engineer (Operations), Kurnool, was pleased to regularize the services of the petitioner from 05.06.1999 to 09.12.2008, the date of reinstatement, treating the said period of absence as no work no pay as per the then existing conduct regulations. However, the conduct regulations are amended subsequently and an amendment was brought to FR 54(5) and 54(B)(7)) and FR 26(b)(ii) for counting EOL for sanction of notional increments and pension. In view of the amended regulations of the fundamental rules, leave granted on EOL after exhaustion of other types of leaves like earned Leave, half pay leave etcetera may be counted for the purpose of notional increments and pension. In view of the

subsequent events, the petitioner is entitled to have the benefit of the amended fundamental rules.

4. Since the petitioner was already reinstated into service and the only issue that remains for consideration is proper regularization of period of absence from services and counting the said period for the purpose of notional increments and pension etcetera, the learned counsel for the petitioner prays for disposal of the writ petition with appropriate directions. Learned Standing Counsel brings to the notice of the court that a counter has been filed but does not dispute the subsequent events.

5. In fact, the petitioner also filed WP MP No.462 of 2015 and placed on record Memo dated 12.02.2015 of the Divisional Electrical Engineer (Operations), Kurnool, whereby orders were issued reinstating the petitioner into service. The petitioner joined duty on 10.12.2008 pursuant to his reinstatement and posting orders is not in dispute. I have carefully gone through the said Memo and also a copy of the amended fundamental rules, which are placed on record.

6. Having heard the submissions of the learned counsel on record appearing for the parties, this Court is satisfied that the writ petition can be disposed of with appropriate directions.

7. Accordingly, the Writ Petition is disposed of directing the respondents to regularize the services of the petitioner from 05.06.1999 to 09.12.2008 by treating the said period of absence appropriately as per amended Fundamental Rules vide G.O.Ms.No.307, Finance (FR.II) Department, dated 03.12.2012,

and pass appropriate orders, if necessary, after giving an opportunity of hearing to the petitioner. The respondents are directed to complete this exercise as expeditiously as possible preferably within two months from the date of receipt of a copy of this order.

Miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

JUSTICE M. SEETHARAMA MURTI

April 4, 2017
LMV

