

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.9726 OF 2018

O R D E R :

The case of the petitioner is that he was initially appointed as T.P.Trainer on 16.11.1984 in Karimnagar Municipal Corporation, Karimnagar and later while he was working in Warangal Municipal Corporation, his services were surrendered to the 2nd respondent on 01.09.2010, against the Circular Ref.No.10499/2001-OP3, dated 18.07.2001 issued by the Government and again he was transferred to Adilabad Municipality by the 2nd respondent vide proceedings dated 27.10.2010 where there is no existing vacancy. The petitioner has brought the same to the notice of his higher officers vide representation, upon which the petitioner was transferred and posted to Karimnagar and later transferred to Peddapalli Municipal Corporation. While so, the 2nd respondent issued charge memo against the petitioner on 23.11.2015 framing charges against the petitioner stating that the petitioner has failed to join the duty when he was posted to work at Adilabad Municipality and wilfully disobeyed the orders issued by the competent authority. In reply to the said charge memo the petitioner submitted a detailed explanation dated 10.03.2016 denying the allegations. But, as on today no enquiry officer was appointed. The petitioner also submitted representations dated 22.05.2017 and 20.11.2017 requesting the authorities to consider and issue orders for payment of salary and allowances for the surrender period i.e. from 01.09.2010 to 30.12.2011 by treating it

as 'on duty'. But, the 2nd respondent without considering the same issued memo on 9.11.2017 stating that payment of salary for the surrender period will be examined after finalization of the disciplinary proceedings. Aggrieved by the same present writ petition is filed.

Learned counsel for the petitioner submits that the petitioner was issued charge memo dated 23.11.2015 for which the petitioner filed explanation dated 10.03.2016. The petitioner also submitted representations dated 22.05.2017 and 20.11.2017 requesting the authorities for regularisation of the surrender period from 01.09.2010 to 30.12.2011 and for payment of salary and allowances for the said period. He also submits that pendency of disciplinary proceedings cannot be a ground for not considering the period from 01.09.2010 to 30.12.2011 for regularisation.

Heard learned Assistant Government Pleader for Services and Smt.P.Lakshmi, learned counsel for the 3rd respondent.

It is to be seen that since petitioner has already filed explanation, it is open for the respondents to proceed further in the disciplinary proceedings and take action. Pendency of disciplinary proceedings cannot be a ground for not considering the representation of the petitioner for regularisation of the period from 01.09.2010 to 30.12.2011 and for payment of salary for the said period. In view of the same, without expressing any opinion on merits, the impugned memo No.225/2015/ME.1, dated 09.11.2017

is set aside and the respondent authorities are directed to consider the representation of the petitioner dated 20.11.2017, in accordance with rules.

Accordingly, the writ petition is allowed. No order as to costs.

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

23.03.2018
t k.

A.RAJASHEKER REDDY, J

