

THE HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.16751 of 2001

ORDER:

The petitioner who is working as Kalasi in ORS Section in Chief Mechanical Engineering Department, Visakhapatnam Port Trust since 1992 filed this writ petition being aggrieved by the Letter No.CME/E-1/M-1/PC.8026/446 dated 8.5.2001 of the 2nd respondent wherein the petitioner was directed to surrender the Medical Identity books issued in the name of Smt. Sudha Lakshmi and M.Sasikala, failing which action will be initiated, pending petitioner's divorce petition in OP.No.479 of 1999 on the file of the Family Court, Visakhapatnam.

Brief facts of the case are that the petitioner is working as Kalasi in ORS Section of Chief Mechanical Engineering Department since 1992. He obtained Medical Identity Books in the name of Smt. M. Sudha Lakshmi, M.Sashikala and M.Suryanarayana claims to be his first wife and children. Thereafter, it appears due to family dispute, he filed OP.No.479 of 1999 before the Family Court, Visakhapatnam and the same is pending. On the complaint given by the legally wedded wife of the petitioner Smt. Sudha Lakshmi, a notice dated 26.6.2000 was issued to the petitioner asking him to surrender the Medical Identity Books issued in the name of Smt. M.Satyavathi, Kum M.Pavithra, Sri M.Sai Kiran and Kum. M.Haritha. The petitioner was served with charge sheet under Regulation 12 of Visakhapatnam Port Employees' (Classification, Control & Appeal) Regulation 1968 vide

Memorandum No.CME/E.I/M.I/PC 8026/3624 dated 21.7.2000 and he denied the charge. He was imposed with a penalty of reduction in pay by one stage for a period of one year without cumulative effect vide proceedings dated 23.9.2000. Again the petitioner was issued with another charge sheet bearing No.4125 dated 11.11.2000 to surrender the Medical Identity Books. The petitioner, in his explanation dated 23.11.2000 refused to surrender the Medical Identity Books till finalization of his divorce petition before the Family court. Taking into consideration his explanation, the respondents, taking a lenient view, have imposed a punishment of withholding his annual increment for one year without cumulative effect vide proceedings dated 9.2.2001.

In the counter affidavit filed by the respondents, it is stated that as the petitioner has obtained the Medical Identity Books to unauthorized persons, he was issued with a charge sheet under Regulation 12 of Visakhapatnam Port Employees' (Classification, Control & Appeal) Regulation 1968 vide Memorandum dated 21.7.2000 and he denied the charge. He was imposed with a penalty of reduction in pay by one stage for a period of one year without cumulative effect vide proceedings dated 23.9.2000. Again the petitioner was issued with another charge sheet bearing No.4125 dated 11.11.2000 asking him to surrender the Medical Identity Books. The petitioner, in his explanation dated 23.11.2000 refused to surrender the Medical Identity Books till finalization of his divorce petition before the Family court. Considering his explanation, the respondents, taking a lenient view, have imposed a punishment of withholding his annual increment for one year without cumulative effect vide proceedings dated 9.2.2001. It is

further stated that the petitioner in his explanation dated 9.5.2001 in reply to the impugned letter 8.5.2001 stated that he has not drawn any medical identity books as alleged in the name M.Sudha Lakshmi and the same is not in his possession and is taken away by Smt. M.Sudha Lakshmi and no identity card was issued in the name of Ms.Sasikala. Being aggrieved by the impugned order, the present writ petition is being filed.

Ms.Vidyavathi, learned counsel for the petitioner would contend that the petitioner has submitted his explanation stating that the Medical Identity Books taken in the name Smt. M.Sudha Lakshmi and others are not with him and that he has not taken any Medical Identity Card in the name of Smt, M.Satyavathi and without considering the same, the respondents have initiated disciplinary action and imposed a penalty of reduction in pay by one stage for a period of one year without cumulative effect vide proceedings dated 23.9.2000. Subsequently the respondents have issued another charge sheet bearing No.4125 dated 11.11.2000 for the self same charge and the petitioner was imposed a minor penalty of one annual grade increment without cumulative effect vide proceedings dated 9.2.2001. Learned counsel further contends that issuance of the present impugned order amounts to double jeopardy and violation of Article 20 of the Constitution of India.

Learned counsel for the petitioner further contend a complaint was made by Smt. M.Sudha Lakshmi before the respondent authorities alleging that the petitioner had not taken care of her and her children and ill treated her and forcibly snatched away the Medical Identity Books of her and her children and destroyed them. When such is the position, the Medical

Identity Books issued in the name Smt. M.Sudha Lakshmi and her children are not available with the petitioner and as per the directions of the Family Court, the authorities have issued duplicate Medical Identity Books to Smt. M.Sudha Lakshmi and her children and when no Medical Identity Cards were taken in the name Smt. M.Satyavathi and others, the impugned orders are liable to be set aside.

Per contra, Ms. V.Uma Devi, learned counsel for the respondents while reiterating the contentions raised in the counter stated that the 1st wife of the petitioner Smt M.Sudha Lakshmi filed a complaint before the Labour Officer stating that the petitioner has been ill-treating her and her children are not looked after and suppressing the said fact, he obtained Medical identity Cards in the name of Smt. M.Satyavathi and others and the earlier Medical Identity Cards issued in her name to the petitioner was not returned and duplicate Identity Cards were issued to her as per the orders of the Family Court in I.A.No.576 of 2000 in O.P.No.479 of 1999. She further contended that as the petitioner has not surrendered the Medical Identity Books, punishment was imposed vide proceedings dated 23.9.2000 and 9.2.2001 respectively.

For the reasons stated above, this Court finds that the petitioner was imposed punishment twice for non surrender of the Medical identity Books issued in the name of Smt. M.Sudha Lakshmi and others. When the petitioner has not taken any Medical Identity Card in the name of Smt. M.Satyavathi, the questioning of returning the same does not arise and that he never suppressed any fact and visited the 2nd respondent organization.

Therefore, again asking the petitioner to return Medical Identity Books issued in the name of Smt. M.Sudha Lakshmi and others through the impugned order does not arise as the said books were already destroyed by the petitioner, as alleged by Smt. M.Sudha Lakshmi. Petitioner also stated that the Medical Identity Books are with Smt. M.Sudha Lakshmi only and that the duplicate Medical Identity Books were also issued to Smt. M.Sudha Lakshmi as per the orders of the Family Court. Therefore, the question of surrendering the Medical Identity Books issued in the name Smt. M.Sudha Lakshmi does not arise. Further, the respondents have stated nothing contra in the counter affidavit with regard to issuance of Medical Identity Books in the name of Smt. M.Satyavathi and hence the same cannot be disputed.

Hence, the Writ Petition is allowed and the impugned Letter No.CME/E-1/M-1/PC.8026/446 dated 8.5.2001 is set aside. However, the respondents are at liberty to take disciplinary action against the petitioner for any other misconduct but not with regard to non surrendering the medical identity books issued in name of M.Sudha Lakshmi and Smt. M.Satyavathi. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. GANGA RAO

Date: 10/07/2018

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