

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6165 OF 2008

ORDER

This writ petition is filed seeking the following relief:

“..to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring clause 33 of the 8th bipartite settlement dated 2nd June, 2005 as illegal and consequently direct the respondents to reinstate the petitioner removed from services of the bank vide orders dated 29.11.2006 into service with full back wages and consequential benefits, and to pass such other order or orders as this Hon'ble Court may deem fit and proper.”

Heard Sri A.Srinath, learned counsel appearing for the petitioner, and Sri Ch.Siva Reddy, learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that initially, he was appointed as a Peon in the respondent-Bank in the year 1983 on temporary basis. Thereafter, his services were regularized on 2.6.1987 and since then, he was discharging his duties as such. While so, during 2005-2006, due to his ill health, he had absented to his duties. The respondents have construed this incident as misconduct, initiated action against the petitioner for being absented for more than 90 days, and removed him from service *vide* order dated 29.11.2006. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that as per Clause 33 of the 8th Bipartite Settlement, the

respondents shall issue two months' notice to the petitioner to show cause as to why appropriate action should not be taken against him within 30 days, but no such notice was issued to the petitioner; that the impugned action of the respondents in treating the petitioner as voluntarily abandoned from services is arbitrary and illegal; In support of his contention, he placed reliance on the judgment reported in *G.T.Lad and others vs. Chemical and Fibres of India Limited*¹, wherein it was held that the persons, who participated in a strike demanding enforcement of their rights and absents from duty would not amount to their voluntary abandoning from service; that in the instant case also, the respondents never appreciated the fact that owing to his ill health and other problems, the petitioner had absented to his duties and there was no intention on the part of the petitioner to voluntarily abandon from service; and that appropriate orders be passed by setting aside the impugned order dated 29.11.2006 and reinstate the petitioner into service with all consequential benefits.

Learned Standing Counsel appearing for the respondents submits that the respondents have initiated action strictly in accordance with Clause 33 of the 8th Bipartite Settlement and two show cause notices dated 18.5.2006 and 26.10.2006 were issued to the petitioner and in spite of

¹ (1979) 1 Supreme Court Cases 590

receiving the same, the petitioner had not chosen to join the service. Having left with no option, the respondents have treated the absence of the petitioner as voluntarily abandoned from service and passed the impugned order and that no illegality has been committed by the respondents.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the disciplinary authority has rightly passed the impugned order in accordance with Clause 33 of the 8th Bipartite Settlement by treating that the petitioner had voluntarily abandoned from service. Unless and until grave irregularity or illegality has been pointed out by the petitioner, this Court is not inclined to interfere with the same. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

5th December, 2018
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