

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.18013 OF 2005

ORDER

This writ petition is filed seeking the following relief:

“....to issue writ, or order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in not considering the representation dt.1.11.2004 for counting entire service for the purpose of fixation of pension and pensionary benefits is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondent to consider the representation dated 01.11.2004 for fixation of pension duly taking entire service and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri J.M.Naidu, learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondent.

It is the case of the petitioner that he was appointed as Rakshak in Railway Protection Force on 09.09.1965, and now the post is called as Constable and discharging his duties as such. Due to mental disorder, he had absented to duties from 25.02.1983 to 18.07.1983. After recovery, he had submitted medical certificate requesting the respondent to permit him to join duty. The respondent had construed the unauthorized absence of the petitioner as misconduct and after initiating disciplinary proceedings, imposed the punishment of removal

from service *vide* proceedings dated 20-08-1983. The appeal and the review filed by the petitioner were rejected *vide* orders 18.08.1984 and 10.04.1985. Thereafter, he filed mercy petition and the same was entertained by the respondent and an order dated 12.07.1985 was passed modifying the punishment of removal to that of re-enlisting (reinstating) into service, subject to production of fitness certificate from the concerned railway doctor.

Learned counsel appearing for the petitioner submits that the service rendered by the petitioner prior to his re-enlisting into service was not counted for the purpose of pension and that he submitted a representation to the respondent on 01.11.2004, but so far no orders have been passed thereon.

Having regard to the said submissions, this Writ Petition is disposed of directing the respondent to consider the representation of the petitioner dated 01.11.2004 and pass appropriate orders thereon within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

