

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**W.P.No.1423 of 2004**

**ORDER**

This writ petition is filed seeking a writ of mandamus to declare the Memo dated 13.06.2002 issued by the first respondent in treating the period from 01.08.1988 to 11.04.1993 as 'dies-non' for all purposes, as illegal and arbitrary and consequently to direct the first respondent to treat the said period as 'on duty' and to consider the case of the petitioner for promotion to the next higher post from the date on which his juniors were promoted.

2. Heard learned counsel for the petitioners and learned Standing Counsel for the first respondent.

3. During pendency of the writ petition, the petitioner died and his legal representatives were added as petitioners 2 to 5.

4. The petitioners contended that while the first petitioner was working as Messenger in the second respondent Station, he was terminated from service on 29.05.1989 on the ground of his unauthorized absence for a period of three years and challenging the same, he filed W.P.No.18178 of 1999 and the same was allowed on 06.02.1992 setting aside the order of termination holding that procedural aspect has not been followed and liberty was also given to the respondents to hold enquiry in accordance with the regulations of the A.P. Agricultural University. The petitioners further contended that seeking to reinstate him into service, the first petitioner made a representation to the first respondent, who in turn,

had appointed an Enquiry Officer and that after conducting a detailed enquiry, the Enquiry Officer has recommended to reinstate the first petitioner into service by treating the period of his absence as 'extraordinary leave'. Thereafter, the first petitioner was reinstated into service vide proceedings dated 12.04.1993. While so, the first petitioner made several representations to the first respondent to treat the period of his absence as 'on duty' and the matter was placed before the Service Committee, which in turn resolved that the period of absence may be regularized as 'extraordinary leave' on medical grounds from 29.07.1985 to 31.07.1988 and the rest of the period from 01.08.1988 to 11.04.1993 may be treated as 'dies-non'. When the said recommendation was placed before the Board of Management, the same was approved and thereafter, the impugned memo was issued treating the period of his absence from 29.07.1985 to 31.07.1988 as 'extraordinary leave' on medical grounds and the rest of the period from 01.08.1988 to 11.04.1993 as 'dies-non'. Challenging the same, the present writ petition is filed.

5. Learned counsel for the petitioners contended that the action of the respondents in treating the period from 01.08.1988 to 11.04.1993 as 'dies-non' as illegal and arbitrary as no opportunity was given to the first petitioner and the said order is liable to be aside.

6. This Court, having considered the said submissions and also the death of the first petitioner during pendency of the writ petition, is of the considered view that ends of justice would be met if a direction

is given to the legal representatives of the first petitioner i.e., petitioners 2 to 5, to submit a representation to the first respondent, within two weeks from the date of receipt of a copy of this order, and on receipt of such representation, the first respondent shall consider and pass appropriate orders within two weeks thereafter.

7. With the above direction, the Writ Petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

27<sup>th</sup> November, 2018

sj

**ABHINAND KUMAR SHAVILI, J**

