

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.27558 OF 2005

ORDER

This writ petition is filed for the following relief:

“....to issue a writ, order or direction more in the nature of Writ of Certiorari calling for the records relating to the impugned Notice R.C.No.88/2004, Admn.5, dated 30.11.2005 and quash the same in so far as the petitioner is concerned and further direct the respondents to accept the application of the petitioner for withdrawal from VRS and declare the notice Rc.No.88/2004.Admn.9, dated 17.3.2004 and letter Rc.No.88/2004 A.9, dated 30th July, 2004 as illegal, bad and arbitrary and consequently set aside the same and further declare that the petitioner is entitled to be continued in service with all consequential benefits and to 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.R.Manohar Rao, learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that initially, he was appointed as Junior Assistant on 09.05.1977 in the 1st respondent-Corporation and thereafter, he was promoted as Senior Assistant on 16.11.1991. While working as such, the respondents have introduced Voluntary Retirement Scheme and options were called for from the employees to exercise their option. The last date for submission of option was 20th

February, 2004. The petitioner had submitted his application on 28.02.2004 i.e., after expiry of the last date for submission of the options. Subsequently, the petitioner had withdrawn his application *vide* letter dated 28.06.2004. But, the respondents have rejected the said withdrawal application made by the petitioner *vide* proceedings dated 30-07-2004. Thereafter, the respondents have issued a notice dated 30-11-2005 informing the petitioner that he would be retired from service under Voluntary Retirement Scheme and relieved by 31.12.2005. Challenging the same, the present writ petition is filed.

While admitting the writ petition on 29-12-2005, this Court granted interim direction in WPMP No.35394 of 2005.

In pursuance of the said direction, the petitioner was continued in service and he had retired from service on attaining the age of superannuation in June, 2012. Therefore, the cause in this writ petition does not survive for adjudication in respect of continuation of service as the petitioner had continued in service till he attained the age of superannuation.

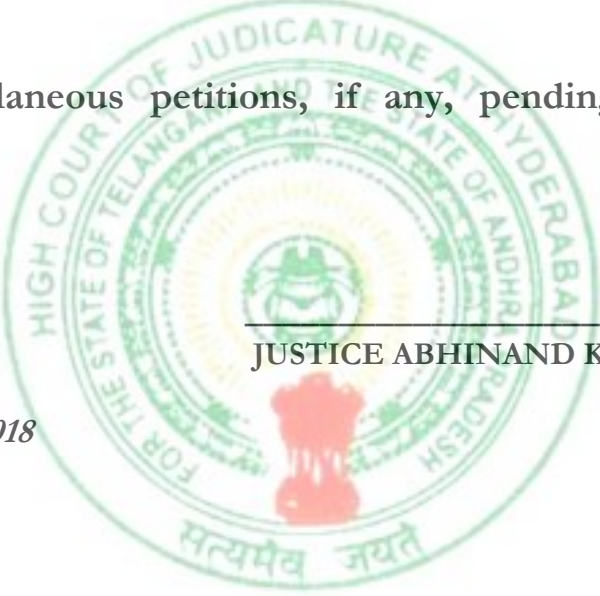
Now, the only question remains to be considered is as to whether the petitioner is entitled to gratuity, leave encashment, arrears of DA, and arrears of increments.

Since the petitioner had rendered service till he attained the age of superannuation, he is entitled to the aforesaid

benefits. Hence, ends of justice would be met if a direction is given to the respondents to pay gratuity, leave encashment, arrears of DA and arrears of increments.

Accordingly, the Writ Petition is disposed of directing the respondents to pay gratuity, leave encashment, arrears of DA and arrears of increments, with interest, to the petitioner as per the Payment of Gratuity Act, 1972, 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

30th August, 2018
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