

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.14066 OF 2015

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings dated 18.10.2014 as arbitrary, illegal and consequently to direct the respondents to continue the petitioner into service with all consequential benefits.

Heard Sri Venkateshwar Varanasi, learned counsel appearing for the petitioner and learned Government Pleader for Endowments.

It is the case of the petitioner that initially, he was appointed as a Clerk in the 3rd respondent-Sri Dharmashala on 10.09.93 and regular pay scale was also extended to him. While working as such, as he had suffered severe health problems, he applied medical leave from 01.04.1995 to 31.03.1996 and the same was sanctioned, without salary. Again, he has applied extraordinary leave from 02.09.1996 to 01.09.1997 and further extended the leave from 02.09.1997 to 30.04.1998 for higher education, without salary. It is further case of the petitioner that as his mother has been suffering from cancer, he had applied extraordinary leave from 1.6.1998 to 31.03.2001 and the same was sanctioned *vide* proceedings dated 6.6.98, without

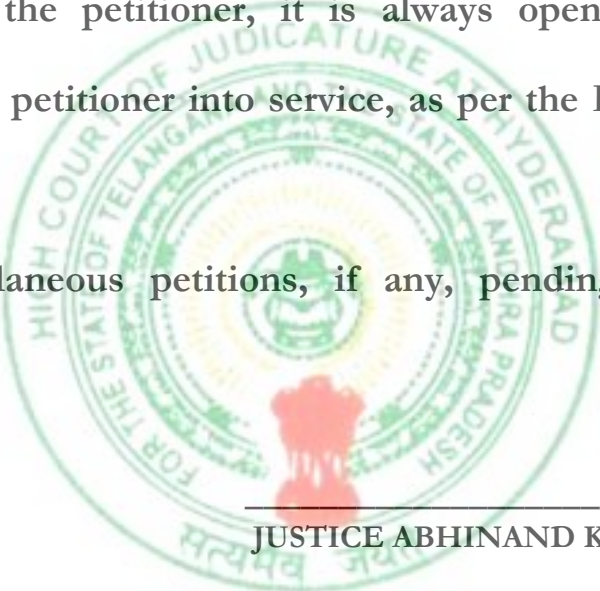
salary. It is also the case of the petitioner that explaining the difficulties, such as his mother has been suffering from cancer, he could not attend to duty upto 2001, he submitted a representation on 15.11.2007 requesting the respondents to permit him to join duty, but the respondents had not passed any orders thereon. Finally, the 2nd respondent-Assistant Commissioner, had passed order on 18.10.2014 to the effect that his services cannot be utilized on the ground that the records in the 3rd respondent are not available consequent upon road widening and in view of the same, the request of the petitioner to reinstate him into service cannot be accepted. Challenging the said order, the present writ petition is filed.

Learned Government Pleader contends that as the petitioner absented himself continuously for more than 12 years from 1995 to 2007, his case does not deserve to be considered and hence, it should be deemed that the petitioner has voluntary retired from service.

Having regard to the facts and circumstances of the case, this Court is of the considered view that the petitioner has submitted a representation on 15.11.2007 seeking permission to join duty, but the respondents have not passed any final orders either terminating his services or accepting his request to join duty.

Therefore, without expressing any opinion on the merits of the case, this writ petition is disposed of directing the respondents to consider the representation dated 15.11.2007 and subsequent representations dated 29.7.2008, 1.10.2008, 9.1.2009, and 17.2.2010 submitted by the petitioner seeking reinstatement into service, and pass appropriate orders, as per law, within a period of eight weeks from the date of receipt of a copy of this order. If the respondents intend to condone the absence of the petitioner, it is always open for them to reinstate the petitioner into service, as per the Rules in force. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

25th April, 2018
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