

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.37371 OF 2017

ORAL ORDER: (per Hon'ble Sri Justice Suresh Kumar Kait)

1. Vide the present petition, the petitioner-State of Telangana has challenged the order dated 3.4.2014 passed in O.A.No.7796 of 2011, whereby the application filed by the respondent under Section 19 of the Administrative Tribunals Act, 1985 has been allowed.

2. The learned Government Pleader for Services I appearing on behalf of the petitioners submits that the respondent was appointed as Junior Lecturer in Chemistry (Urdu Medium) on 30.10.2008 and posted at Government Junior College (Boys), Medak, Thereafter, the Principal of the said college addressed a letter dated 25.11.2008 to the 3rd petitioner to post the respondent to a needy college, and the Principal, Government Junior College (Boys), Mahabubnagar addressed a letter dated 28.11.2008 to the 3rd petitioner to fill up the vacancy of Lecturer in Chemistry (Urdu Medium) in the interest of student community. Thus, there was a need of Lecturer in Chemistry (Urdu Medium) in Government Junior College (Boys), Mahabubnagar. The respondent submitted a representation to the petitioners on 12.12.2008 and 1.6.2009, to post her in the existing vacancy at Government Junior College (Boys), Mahabubnagar.

Again the Principal of Government Junior College (Boys) at Medak addressed a letter dated 26.6.2009 to the 3rd petitioner to post the respondent to a needy college as Urdu Medium section was not functioning, and meanwhile, the Government lifted ban on transfers. Thereafter, the respondent attended counselling on 19.7.2009, and while so, the 2nd petitioner issued order dated 11.9.2009 deputing the respondent to work at Government Junior College, Zaheerabad, Medak District, after the ban on transfers was reimposed.

3. The learned Government Pleader further submits that the respondent herein applied for leave since the representations made by her for her transfer to Government Junior College (Boys), Mahabubnagar, are pending with the 2nd and 3rd petitioners, and that the respondent was relieved on 16.9.2009. Thereafter, she made another representation on 22.09.2009 to the petitioners for posting her to the existing vacancy at Government Junior College (Boys), Mahabubnagar, but on the application for leave submitted by the respondent no orders were passed by the petitioners rejecting the same. Meanwhile, the Government issued G.O.Rt.No.32, dated 18.1.2010 according permission to transfer the respondent to Government Junior College (Boys), Mahabubnagar in the existing vacancy in relaxation of ban on transfers, and on the very next day i.e., on 19.1.2010, the 2nd petitioner passed orders in

proceedings dated 19.1.2010 placing the respondent under suspension by issuing article of charges on the same day. The respondent submitted her explanation to the charge memo, and being not convinced with the same, an enquiry officer was appointed. The enquiry officer conducted enquiry and submitted his report and held the charge as proved.

4. Further, the learned Government Pleader submits that the respondent joined as Junior Lecturer on 25.11.2008 and was deputed to work at Government Junior College, Zaheerabad, Medak District on 11.9.2009 in the interest of students community. Consequently, she was relieved vide order dated 16.9.2009, however, the respondent made her application on 19.10.2009 for leave from 17.9.2009 to 31.10.2009. For the said period, charge memo was issued and the enquiry officer held that the charges are proved against the respondent as she remained absent unauthorizedly for the period from 17.9.2009 to 31.10.2009.

5. It is pertinent to mention here that after joining as junior lecturer, the respondent made leave application dated 19.10.2009 for the leave period from 17.9.2009 to 31.10.2009. Thereafter, extension of leave was sought by the respondent vide applications, dated 2.11.2009, 3.12.2009 and 2.1.2010, for the period from 1.11.2009 to 30.11.2009; for the period from 1.12.2009 to

31.12.2009 and for the period from 1.1.2010 to 20.1.2010 respectively. As stated by the learned Government Pleader for the petitioners, within eight months of service, the respondent made applications for leave from 17.9.2009 to 20.1.2010. Thus, her conduct was not appreciable and therefore, the petitioners have imposed punishment upon the respondent.

6. It is not in dispute that the respondent herein made an application for leave. But no order was passed on the leave application by rejecting the same. However, vide order dated 19.1.2010, a charge memo was issued against the respondent. Before issuing the said memo, the petitioners should have passed an order on the leave application rejecting the same and only thereafter, they should have issued the charge memo dated 19.1.2010. But the petitioners failed to do so. Since no decision was taken by the petitioners on the leave application of the respondent, disciplinary proceedings cannot be initiated and punishment cannot be imposed on the ground of unauthorized absence of the respondent.

7. Though we do not appreciate the conduct of the respondent in making applications for leave one after another but in view of the fact that simultaneously, the petitioners failed to pass appropriate orders on the leave application made by the respondent, we find no

illegality or perversity in the order dated 3.4.2014 passed by the A.P. Administrative Tribunal in O.A.No.7796 of 2011. Moreover the order dated 3.4.2014 passed in the above O.A. was challenged by the petitioners in the year 2017 i.e., nearly after three years.

8. In view of the findings recorded above, we do not find any ground to interfere with the order dated 3.4.2014 passed by the A.P. Administrative Tribunal in O.A.No.7796 of 2011.

9. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.



JUSTICE SURESH KUMAR KAIT

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 10.7.2018

Nn.

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(Order delivered by SKK,J)



10/07/2018

Nn.

