

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.5157 of 2019

ORDER:

This Writ Petition is filed seeking Writ of Mandamus declaring the action of 4th respondent in issuing Memo dated 14-02-2019 as arbitrary, illegal and without jurisdiction apart from being violative of Articles 14 and 21 of the Constitution of India and further direct them to immediately release the amount lying in the General Provident Fund of the petitioner.

2. Heard Sri M.V. Durga Prasad, learned counsel for the petitioner and Sri Pochaiah, learned Standing Counsel for respondent Nos.3 and 4.

3. It has been contended by the petitioner that he was appointed as Judo Coach during 1981 and while he was discharging his duties, he was dismissed from service vide orders dated 06-03-2013. Challenging the orders of dismissal, the petitioner has filed W.P.Nos.7670 of 2013 and 10659 of 2013 and the same are pending before this Court. The petitioner has requested the respondents to release his GPF amount and the respondents have directed the petitioner to submit GPF Final Withdrawal Slip vide proceedings dated 14-02-2019 and the petitioner contended that the said GPF Final Withdrawal Claim Form contains a clause contrary to Rule 28 of the Telangana General Provident Fund Rules, 1935 (for brevity 'the Rules') and the respondents are insisting that the

petitioner shall give undertaking that he will not prefer any appeal against the orders of dismissal.

4. The petitioner has drawn attention of this Court to Rule 28 of the Rules, wherein the original Rule 28 was amended and the clause of giving undertaking not to prefer an appeal against the orders of dismissal was deleted by G.O.Ms.No.99 dated 19-06-1992 and when the Rule itself was amended deleting that portion of the Rule where it mandated giving an undertaking not to prefer an appeal against orders of dismissal, the action of respondents in incorporating the very same clause and seeking an undertaking from the petitioner that he would not prefer an appeal against the orders of dismissal is contrary to the amended Rule 28 of the Rules.

5. Therefore, the learned counsel for the petitioner contended that appropriate orders be passed in the Writ Petition directing the respondents to release GPF amount of the petitioner without insisting for an undertaking to be given in the prescribed form which was annexed to the proceedings dated 14-02-2019.

6. Learned Standing Counsel appearing for respondent Nos.3 and 4 had submitted that in view of the amended Rule 28 of the Rules, the case of the petitioner would be considered and the GPF amount of the petitioner would be released in accordance with the Rules.

7. This Court, having considered the rival submissions made by the parties, is of the view that when Rule 28 is amended vide G.O.Ms.No.99 dated 19-06-1992, the respondents cannot insist for an undertaking from the petitioner that the petitioner would not prefer an appeal against the orders of dismissal.

8. Therefore, the respondents are directed to consider the case of the petitioner for release of the GPF amount without insisting for undertaking that the petitioner would not prefer an appeal against the orders of dismissal.

9. With these observations, the Writ Petition is allowed.
No costs.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 13-03-2019
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