

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.5494 & 5602 of 2019

COMMON ORDER:

Since the issue involved in both these writ petitions is one and the same, these two writ petitions are being disposed of by way of this common order.

Heard the counsel for the parties.

In both these cases, the petitioners are employees of the 2nd respondent Corporation and they have sought voluntary retirement on medical grounds by submitting medical certificates. Subsequently, they were allowed to retire on medical grounds and later on, the 2nd respondent has recommended the cases of the petitioners for grant of pension and the 7th respondent has processed the pension proposals.

In respect of the petitioner in W.P.No.5494 of 2019 is concerned, the 7th respondent has, in fact, authorized the pensionary benefits. However, later on, *vide* proceedings dated 06.02.2019, the 7th respondent has instructed the 8th respondent not to disburse pension in favour of the petitioner on the ground that the Medical Certificate of Invalidation forwarded was fake/forged.

So far as the petitioner in W.P.No.5602 of 2019 is concerned, though the pension proposals were processed, the 7th respondent has not yet authorized the pensionary benefits.

Counsel for the petitioners had submitted that *vide* proceedings dated 06.05.2019, the 2nd respondent has addressed a letter to the 1st

respondent to initiate appropriate action in terms of the A.P. Revised Pension Rules, as the 1st respondent is the competent authority to initiate disciplinary action against the petitioners. Counsel further submitted that so far the 1st respondent has not taken any decision as to initiating action against the petitioners in terms of the A.P. Revised Pension Rules. Counsel further submitted that without conducting any enquiry, the 2nd respondent is alleging that the petitioners have produced fake/forged Medical Certificates and, if only an opportunity is given to the petitioners, the petitioners would be in a position to demonstrate that the Medical Certificates produced by them are genuine and not fake Certificates.

Government Pleader for Services-III as well as Smt. P. Laxmi Kumari, Standing Counsel for the 2nd respondent Corporation, had submitted that since the petitioners have retired from service on medical invalidation ground, the 2nd respondent has forwarded proposal to the 1st respondent to initiate action against the petitioners.

Government Pleader for Services-III appearing for the respondents had submitted that the proposal submitted by the 2nd respondent on 06.05.2019 would be examined by the 1st respondent and appropriate orders would be passed in accordance with the Rules, after examining the case of the petitioners.

This Court, having considered the rival submissions of learned counsel for the parties, is of the considered view that as long as the 1st respondent has not initiated any disciplinary proceedings, the 2nd

respondent cannot stall the pensionary benefits in favour of the petitioners and the respondents also cannot withhold the process of sanctioning pension in favour of the petitioners. Therefore, the impugned order, dated 06.02.2019, of the 7th respondent in requesting to stop payment of pension, is liable to be set aside and the same is accordingly set aside. However, liberty is given to the 1st respondent to consider the proposal submitted by the 2nd respondent on 06.05.2019 and if the 1st respondent is of the opinion that appropriate disciplinary action has to be initiated against the petitioners, it is always open to the 1st respondent to initiate disciplinary proceedings against the petitioners in accordance with the A.P. Revised Pension Rules. It is needless to say that while initiating disciplinary proceedings against the petitioners, the respondents are bound to follow the principles of natural justice.

With the above directions, these writ petitions are disposed of.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

25th July, 2019
v v