

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.7247 of 2019

ORDER:

This Writ Petition is being disposed of at the admission stage with the consent of both the parties.

2. This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondents in suspending the petitioner from service without proper reason by Proceedings, dated 01-06-2018 and again reinstatement into service but posting him at far off place i.e. Zilla Parishad High School, Kanmanoor, M.P.Marikal, without any reason and not treating the suspension period as 'on duty', as illegal, arbitrary, against the C.C.A Rules, 1991 and in violation of Articles 14 and 16 of the Constitution of India and hold that the petitioner is entitled to be continued as School Assistant (Physical Science) at Z.P.High School, Kothapet, Hanwada Mandal, Mahabubnagar District and sought consequential direction to the respondents to continue him at Zilla Parishad High School, Kothapet, Hanwada Mandal, Mahabubnagar District.

3. Heard Sri P.Laxma Reddy, learned counsel for the petitioner and the learned Government Pleader for Services-I, appearing for the respondents.

4. The petitioner submits that he is working as School Assistant (Physical Sciences) in Z.P.High School, Kothapet, Hanwada

Mandal, Mahabubnagar District, and while discharging his duties, he was placed under suspension by the 3rd respondent-District Educational Officer, Mahabubnagar, by the orders, dated 01-06-2018, alleging that the petitioner had indulged in indiscipline activity and he was negligent in his duty. Thereafter, he was reinstated into service vide orders, dated 25-08-2018 and while reinstating the petitioner, he was given posting order to a far off place at Zilla Parishad High School, Kanmanoor, M.P.Marikal, without any reasons. The grievance of the petitioner is that he has made a representation to the respondents to treat the suspension period as 'on duty', but the respondents without initiating any disciplinary action and without finding fault with the conduct of the petitioner, has passed orders treating entire suspension period i.e. from 05-06-2018 to 17-09-2018 as eligible leave.

5. Learned counsel for the petitioner contends that when the conduct of the petitioner was not proved as mis-conduct and no disciplinary action was initiated against the petitioner, the 3rd respondent could not have treated the suspension period as eligible leave. Therefore, the impugned orders are liable to be set aside.

6. Learned Government Pleader for Services-I, appearing for the respondents, submits that the petitioner was placed under suspension vide orders, dated 01-06-2018 and while the petitioner was continuing in suspension, the District Collector had perused the file

and on his instructions, the petitioner was reinstated into service on 28-08-2018.

7. Admittedly, it has been alleged that the petitioner had indulged in indiscipline activity and he was negligent in his duty and the disciplinary authority has rightly placed him under suspension. However, with the interference of the District Collector, he has been reinstated into service as no disciplinary action was initiated against the petitioner.

8. This Court, having considered the rival submissions made by the parties, is of the considered view that when no disciplinary action had been initiated against the petitioner, then the suspension period is to be necessarily treated as 'pen-on-duty' and the respondents are incorrect in holding that the suspension period will be treated as eligible leave. Therefore, the impugned orders, dated 20-12-2018, are liable to be set aside and accordingly the same are set aside.

9. As far as the prayer of the petitioner that he should be continued at Z.P.High School, Kothapet, Hanwada Mandal, Mahabubnagar District, is concerned, the petitioner can submit a representation to the respondents seeking posting at Z.P.High School, Kothapet, Hanwada Mandal, Mahabubnagar District, within two weeks from the date of receipt of a copy of this order and upon such representation being received, the respondents shall consider his case

before the commencement of next academic year and pass appropriate orders.

10. With the above observations, the Writ Petition is allowed. No costs.

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

JUSTICE ABHINAND KUMAR SHAVILI

Date: 09-04-2019
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