

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.7541 OF 2019

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in not considering the period of 116 days from 26.05.2018 to 18.09.2018 as duty period and not paying salary and other allowances for the said period, as illegal and arbitrary and further direct the respondents to consider the said period of 116 days as duty period and pay salary and other allowances for the said period and also to count the service for the purpose of seniority and other benefits.

Heard Ms. K.Kiran Mayee, learned counsel for the petitioner, and Government Pleader for Services-II.

It has been contended by the petitioner that he was working as MPDO in Guntur District and after bifurcation of the State by virtue of A.P. Re-organisation Act, he was allotted to the State of Andhra Pradesh. After being allotted to the State of Andhra Pradesh, the petitioner had submitted an application for mutual transfer with one Sri M. Narasimha Naidu, who was working as MPDO in Mahabubnagar District, and *vide* G.O.Rt.No.336 dated 17.04.2018, the petitioner has been transferred from the State of Andhra Pradesh to the State of Telangana. It is stated that in pursuance of the said G.O., the petitioner has reported before the 1st respondent on 26.05.2018 and the counsel for the petitioner contended that though the petitioner has reported before the 1st respondent in pursuance of

the said G.O., the respondents have not given any posting orders for three months and finally posting orders were given to the petitioner on 17.09.2018 and pursuant thereto, the petitioner had joined duty on 18.09.2018.

The grievance of the petitioner is that the period from 26.05.2018, the day on which he has reported to the 1st respondent, till he had joined duty pursuant to posting orders dated 17.09.2018 is not being considered for payment of salary, other service benefits and also for the purpose of seniority.

Therefore, counsel for the petitioner contended that since there is administrative lapse on the part of the respondents in not giving the posting orders to the petitioner for three months, the period from 26.05.2018 to 18.09.2018 should be treated as compulsory wait in terms of FR 9 (13) and all the benefits be extended to the petitioner.

Government Pleader for the respondents had contended that in the counter affidavit, the respondents have admitted about the administrative lapse in giving posting orders to the petitioner. He also contended that since the petitioner was transferred to the State of Telangana on his own request, the period from 26.05.2018 to 18.09.2018 cannot be counted as spent on duty, therefore, there are no merits in the writ petition and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions of learned counsel for respective parties, is of the considered view that when the petitioner has reported before the 1st respondent on 26.05.2018 in

pursuance of G.O.Rt.No.336 dated 17.04.2018, there is no fault on the part of the petitioner, but there is administrative delay on the part of the respondents in giving posting orders. Even in the counter affidavit, the respondents have clearly admitted about the administrative lapse in giving posting orders to the petitioner. Therefore, the petitioner is entitled for payment of salary for the period from 26.05.2018 to 18.09.2018 and the said period shall be treated as compulsory wait for all purposes and all the benefits shall be extended to the petitioner.

With the above observations, the writ petition is allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

19th November, 2019
v v

