

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**

WRIT PETITION No.16475 OF 2015

ORDER: (Per the Hon'ble the Chief Justice Raghvendra Singh Chauhan)

The petitioner has challenged the legality of the order dated 15.12.2009, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the learned Tribunal had allowed the O.A., filed by the petitioner, and had directed the respondents as under:-

In view of the above submissions made, the period from the date of termination till the date of reinstatement into duty cannot be treated as dies non in view of the termination orders have been set aside by the Tribunal by holding the same as arbitrary and illegal, and hence, the applicant is entitled for the period from 12.7.1991 to 26.6.2001 i.e., from the date of termination till the date of reinstatement as on duty with all consequential benefits.

Thus, this O.A., is allowed to the extent of setting aside the period from 12.7.1991 to 26.6.2001 is to be treated as dies non and declaring that the applicant is entitled for the said period to be treated as on duty in view of the termination orders have been set aside by the Tribunal in O.A., is arbitrary and illegal. The respondents shall pay the arrears for the said period and revised pension to the applicant within a period of eight weeks from the date of receipt of a copy of this Order. Consequently, no order as to costs.

The learned counsel for the petitioner submits that notwithstanding the relief granted by the learned Tribunal, the petitioner is still aggrieved by the fact that the prayer of the petitioner was that the period from 11.07.1979 to 26.06.2001 should not be treated as unauthorized absence. In fact, he should be treated as though he were on duty.

However, the learned Tribunal has limited the relief to the period between 12.07.1991 and 26.06.2001. Therefore, the impugned order deserves to be interfered with.

On the other hand, the learned Government Pleader appearing for the respondents submits that a perusal of the impugned order would clearly reveal that the petitioner had limited his prayer only to the period from the date of termination, i.e., 12.07.1991 to the date of his reinstatement, i.e., 26.06.2001. Therefore, the learned Tribunal was justified in granting the relief only for the said stipulated period. Therefore, the learned counsel has supported the impugned order.

In rejoinder, the learned counsel for the petitioner submits that in the prayer in the Original Application, the petitioner had clearly mentioned that the petitioner is aggrieved by the fact that the period between 11.07.1979 and 26.06.2001 was being treated as unauthorized absence. Therefore, according to the learned counsel, the relief should have been extended to the entire period from 11.07.1979 to 26.06.2001.

Heard the learned counsel for the parties, and perused the impugned order.

In catena of cases, the Hon'ble Supreme Court has clearly opined that while certain reliefs may be prayed for in the pleadings, a relief may be limited, at the request of the parties, or the Court may mould the relief. Moreover, the facts

which are recorded with regard to the conduct of the parties by the Court in the Order should be taken at its face value. For, there is no way to turn the historical clock back, and to discover as to what transpired in the Court on a particular date. Therefore, the facts recorded in the Order should be taken as the gospel truth.

A bare perusal of the impugned order clearly reveals that the learned Tribunal has noted certain facts in paragraph 4 of the impugned order as under:-

This O.A., has been filed challenging the impugned orders on the ground that the period from the date of termination till the date of reinstatement cannot be treated as dies non as the termination orders are set aside by this Tribunal and therefore, the applicant is entitled to consequential benefits as ordered by the Tribunal for treating the period from the date of termination till the date of reinstatement as on duty. Hence, this O.A.

Thus, obviously while arguing the Original Application before the learned Tribunal, the petitioner had restricted his prayers to the period between the date of termination to the date of reinstatement i.e., between 12.07.1991 to 26.06.2001. Therefore, the learned Tribunal was justified in granting the relief of treating the said period as on duty, and in setting aside the order, whereby the said period has been treated as *dies non*. Moreover, the learned Tribunal has granted the relief to the petitioner that the arrears of the said period shall be paid to him, and pension shall be revised on the basis of the last pay cheque.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. This writ petition is, hereby, dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, pending if any, shall also stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A. ABHISHEK REDDY, J)

11.12.2019
Pln/tsr

