

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.25708 of 2019

ORDER:

This writ petition is disposed of at the stage of admission with the consent of both the parties.

This writ petition is filed seeking the following relief :-

“.....to issue a Writ or order preferably in the nature of Writ of Mandamus declaring that;

(i) the impugned order bearing D.O.No.8331/ Proc.No.J2/ 73/ 2015, dated 21/ 07/ 2017 issued by the 7th respondent treating the absence period from 03/ 03/ 2000 to 29/ 12/ 2010 as illegal, arbitrary, unjust, violative of Articles 14, 16 and 21 of Constitution of India, violation of Fundamental Rules, besides contrary to orders passed by the Honble Tribunal in O.A.No.4270 of 2003 as confirmed by the Hon'ble High Court in W.P.No.6468 of 2010;

(ii) direct the respondents to treat the period of absence from 03/ 03/ 2000 to 31/ 12/ 2010 as suspension in terms of orders of Hon'ble Tribunal in O.A.No.4270 of 2003 as confirmed by the Hon'ble High Court in W.P.No.6468 of 2010 and pay arrears of subsistence allowance and enhanced substance allowance in terms of Fundamental Rules, increments during the period of suspension as per revised pay scales from time to time;

(iii) direct the respondents to revise the pension of the petitioner by counting the suspension period for purpose of pension duly treating the absence period as suspension and pay arrears of revised pension with interest 12%per annum; and

(iv) direct the 1st respondent-Government to enquire into the matter and fix the responsibility on the erring officers, who are responsible for inordinate delay i e more than four years in releasing pensionary benefits and initiate disciplinary action against them.....”

Heard Si G.Venkateshwarlu, learned counsel for the petitioner and the learned Government Pleader for respondents.

It has been contended by the petitioner that he was appointed as a Police Constable during 1984 and while discharging duties as such, the disciplinary authority has initiated disciplinary proceedings against him and after conducting a detailed enquiry, the disciplinary authority has imposed major penalty of removal from service vide order dated 03.03.2000. The petitioner, having challenged the order of removal unsuccessfully by filing an appeal, filed O.A.No.4270 of 2003 before the A.P.Administrative Tribunal, Hyderabad and the Tribunal vide order dated 20.07.2007 was pleased to allow the O.A., setting aside the order of removal dated 03.03.2000. Thereafter, the respondents carried the matter in appeal by filing W.P.No.6468 of 2010 questioning the order dated 20.07.2007 in O.A.No.4270 of 2003 and this Court was pleased to dismiss the said writ petition vide order dated 25.03.2010 while confirming the order dated 20.07.2007 passed by the Tribunal. After dismissal of the writ petition, the respondents have reinstated the petitioner into service on 14.10.2010 and after rendering a considerable length of service, the petitioner has retired from service on attaining the age of superannuation on 31.05.2014.

The grievance of the petitioner is that out of employment period i.e., from the date of removal from 03.03.2000 to 31.12.2010 was not treated as "spent on duty".

Learned counsel appearing for the petitioner contends that when the order of removal is set aside by the Tribunal, as confirmed by this Court, the period from the date of removal till the employee is reinstated into service should be treated as suspension, however the respondents, without treating the said period as suspension, have settled the pensionary benefits of the petitioner. He further contends that though

the petitioner has submitted a representation to the respondents on 16.05.2019 requesting to treat out of employment period i.e., from 03.03.2000 to 31.12.2010 as “spent on duty” and refix the pensionary benefits and other benefits in accordance with law, but, so far, the respondents have not passed any orders on the said representation nor treated the above said period as “spent on duty”. Therefore, appropriate orders be passed in the writ petition directing the respondents to consider the representation submitted by the petitioner on 16.05.2019 and pass appropriate orders in accordance with law.

Learned Government Pleader appearing for the respondents contends that since the representation of the petitioner is pending, the respondents would consider the same and pass appropriate orders in accordance with law.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that this writ petition can be disposed of directing the respondents to consider the representation submitted by the petitioner on 16.05.2019 and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 21.11.2019
Prv