

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.20026 OF 2019

ORDER:

This writ petition is filed seeking the following relief:

“...to issue Writ, Order or Direction more particularly one in the nature of Writ of Mandamus by declaring the action of the 3rd respondent in either continuing the services of the petitioner as per the date of birth entered in the service register or in not passing any written orders for retirement of petitioner from service as illegal, arbitrary and violative of the principles of natural justice and contrary to the rules and consequently direct the respondents either continue the services of the petitioner as Pump Operator as per the date of birth entered in the service register or pass any written orders for retirement of petitioner from service and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard P. Raghavender Reddy, counsel for the petitioner, and Sri Lakkadi Dayakar Reddy, Standing Counsel for respondents 2 and 3.

It has been contended by the petitioner that he is a regular employee of respondents 2 and 3 and as per the date of birth entered in his service register, he is entitled to be continued in service, but the respondents are not permitting him to discharge his duties from the month of April, 2019 on the ground that he has attained the age of superannuation in the year 2016 itself. The grievance of the petitioner is that if he has attained the age of superannuation according to the respondents, the respondents must pass orders of retirement and grant

terminal benefits to him, but the respondents are neither passing orders of retirement nor continuing him in service as per his date of birth entered in the service register.

Counsel for the petitioner submits that the respondents must either pass orders of retirement or at least continue the petitioner in service as per the date of birth entered in his service register. Therefore, counsel for the petitioner had contended that appropriate orders be passed in the writ petition directing the respondents to either pass retirement orders or at least continue the petitioner in service as per his date of birth entered in the service register and to further direct the respondents to consider the case of the petitioner in respect of payment of salary from April, 2019 till passing of appropriate orders by them.

Standing Counsel appearing for the respondents had contended that as per the date of birth entered in the service register of the petitioner, the petitioner was supposed to retire in the month of October, 2016 itself, but the petitioner was continued beyond the age of superannuation, and to that effect, the respondents have ordered vigilance enquiry and the respondents are awaiting the vigilance report and the moment the vigilance report is received, the respondents would consider the case of the petitioner and pass appropriate orders in accordance with law.

This Court, having considered the submissions of learned counsel for respective parties, is of the considered view that this writ

petition can be disposed of directing the respondents to pass appropriate orders of either retiring the petitioner on 31.10.2016 or continuing him in service based upon his date of birth entered in the service register. If the respondents pass orders of retiring the petitioner from service on 31.10.2016, then consequently the respondents must also pay terminal benefits by treating the petitioner to have retired on 31.10.2016, and if the respondents take a decision to continue the petitioner in service based upon the date of birth entered in his service register, then appropriate orders be passed allowing the petitioner to continue in service. On both scenario, the respondents are bound to pass orders, but they cannot prevent the petitioner from discharging his duties without there being any orders.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

3rd January, 2020
v v