

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE PULLA KARTHIK
W.P.No.18445 OF 2010**

ORDER: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

Aggrieved by the order dated 27.10.2009 passed in O.A.No.5996 of 2006 by the Andhra Pradesh Administrative Tribunal, Hyderabad, the present writ petition has been filed.

Heard learned Government Pleader for Services-II appearing for the petitioners and Ms. Seema Yasmeen, learned counsel, representing Sri C.Vikram Chandra, learned counsel appearing for the 1st respondent.

It is the case of the petitioners that the 1st respondent was appointed as Junior Assistant on compassionate grounds vide proceedings dated 17-12-1998 subject to condition that he should acquire the requisite qualification within the stipulated period. However, the 1st respondent could not acquire the qualification within the time prescribed by the petitioners. On a representation made by the 1st respondent, the petitioners have extended the

time for acquiring the requisite qualification. In spite of the same, the 1st respondent has not acquired the requisite qualification. Hence, the petitioners have reverted the 1st respondent to a lower post. Aggrieved by the same, the 1st respondent has approached the Tribunal by filing O.A.No.8181 of 2003, but the Tribunal has declined to grant any relief. Thereafter, the 1st respondent has approached this Court by filing W.P.No.27330 of 2003 and this Court granted interim order on 31.12.2003 directing the petitioners to continue the 1st respondent as Junior Assistant. By virtue of the said interim order, the 1st respondent was continued as Junior Assistant. Thereafter, the 1st respondent has acquired the requisite qualification by 19-01-2004. Further, the 1st respondent himself absented to duties from 17-12-2003 to 14-02-2005. Hence, the petitioners have treated the said absence period as 'not spent on duty'. Hence, the 1st respondent has submitted a representation to the petitioners to treat the said period from 17-12-2003 to 14-02-2005 as compulsory wait. The petitioners have considered the said representation, but rejected the same *vide* proceedings dated 17.07.2006. Aggrieved by the said

rejection proceedings, the 1st respondent has approached the Tribunal by filing O.A.No.5996 of 2006. Without appreciating any of the contentions raised by the petitioners, the Tribunal *vide* order dated 27.10.2009 set aside the rejection proceedings and directed the petitioners to treat the period from 17.12.2003 to 14.02.2005 as compulsory wait. Challenging the same, the present writ petition has been filed.

Learned Government Pleader appearing for the petitioners had contended that admittedly the 1st respondent has not worked from 17-12-2003 to 14-02-2005 and hence, the question of treating the said period as compulsory wait does not arise. The petitioners have rightly rejected the case of the 1st respondent and the Tribunal has mechanically allowed the said OA in favour of the 1st respondent. Therefore, appropriate orders be passed in the writ petition by setting aside the order passed by the Tribunal.

Learned counsel appearing for the 1st respondent had contended that the Tribunal was justified in allowing the OA in favour of the 1st respondent on the ground that though the 1st respondent has given joining report to the petitioners, the

petitioners have not permitted the 1st respondent to join duty and only on the direction given by the Tribunal, the petitioners have permitted the 1st respondent to join duty. Therefore, there is no fault on the part of the respondent. There are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal was justified in allowing the OA in favour of the 1st respondent with the following observations.

The above facts clearly show that the respondents though knew about the proceedings dated 30.12.2003, by this Tribunal in O.A.No.4738 of 2000, he was forced to file CA, deliberately, stating that the Applicant did not join for his own reasons. Though the Applicant made several representations enclosing orders of this Tribunal and the High Court, at various stages, the Applicant wasn't allowed to join the post.

In the circumstances, as the Applicant was not allowed to join the post of Junior Assistant till 15.2.2005 from 17.12.2003, the said period is to be treated as Compulsory Wait by the Respondents, as the Applicant could not join duty as Junior Assistant on account of the

attitude of the 1st Respondent. Therefore, the impugned orders, dated 17.7.2006, of the 1st and 2nd Respondents herein are liable to be set aside, and they are accordingly set aside, and the Respondents are directed to treat the period between 17-12-2003 to 14-2-2005 as Compulsory Wait and issue appropriate orders with all consequential benefits, within a period of four weeks from the date of receipt of a copy of this order. The OA is accordingly allowed. However, no costs.

The Tribunal has given a finding that though the 1st respondent has given the joining report, the petitioners have prevented him from joining the duty. Hence, this Court is not inclined to interfere with the order passed by the Tribunal.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE PULLA KARTHIK

Date: 20-01-2023

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