
(2002) 11 AP CK 0073

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20248 of 1996

Shaik Mastanvali

APPELLANT

Vs

Correspondent, Nehru Memorial Committee Aided Elementary
School and Another

RESPONDENT

Date of Decision : 21-11-2002

Acts Referred:

Citation : (2003) 1 ALD 57 : (2003) 3 ALT 587

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

**Advocate : P.V. Krishnaiah, for the Appellant; Government Pleader for
Education, for the Respondent**

Judgement

S.R. Nayak, J.—Although rule nisi was issued by this Court on 25.9.1996, till-date, no counter-affidavit is filed on behalf of the respondents. At the time of hearing too, none appeared, nor any representation was made, on behalf of the respondents. Since the writ petition is of the year 1996 and since it is stated that the petitioner-employee has already retired, I do not think it appropriate to postpone the decision-making suo motu.

2. In the writ petition, the petitioner has asked for a direction to the respondents to pay the salary to him for the period from 6.7.1990 to 21.1.1991 on the basis of the proceedings of the Deputy Inspector of School in Rc.No. 642/B/92, dated 6.2.1993.

3. The background facts leading to the above claim, as set out by the petitioner in the affidavit filed in the writ petition, be noted briefly as under:

4. The first respondent issued Proceedings Rc.No. 1/90 NMC, dated 14.5.1990 transferring the petitioner from the post of Headmaster (Secondary Grade), Nehru Memorial Committee Aided Elementary School and posting him as Assistant in the place of Sri K. Sanjeeva Reddy. According to the petitioner, the said action of the first respondent tantamounted to reversion to a lower post and

therefore, he did not join duty in place of Sri K.Sanjeeva Reddy. In the circumstances, the first respondent issued Proceedings Rc.No. 1/90, dated 30.6.1990 suspending the petitioner from the post of Headmaster for not joining the service in the place of Sri K.Sanjeeva Reddy as School Assistant. That was followed by a Memo No. Rc. 1/ 90, dated 3.7.1990 issued by the first respondent directing the petitioner to hand over charge to Sri K.Sanjeeva Reddy. On a representation made by the petitioner, the District Educational Officer, Guntur cancelled the transfer orders issued by the first respondent and issued Proceedings Rc.No. 9509/C.5/90, dated 31.7.1990 to the first respondent to reinstate the petitioner into service to the post of Headmaster with immediate effect and, also directed the Deputy Inspector of Schools (Urban Range) to visit the school along with the petitioner and see that the orders are implemented in his presence. Accordingly, the petitioner was reinstated into service as Headmaster. Further, the Deputy Inspector of Schools in Rc.No. 642/B/92, dated 6.2.1993 had given a direction to the first respondent that the period of absence till his reinstatement in the post of Headmaster should be treated as on duty for all purposes and to pay the salary from 6.7.1990 to 21.1.1991 and directed the first respondent to inform about the compliance of the direction. The petitioner has complained that despite the above specific instructions and directions issued by the District Educational Officer, Guntur and the Deputy Inspector of Schools (Urban Range), Guntur to release the salary to the petitioner for the period from 6.7.1990 to 21.1.1991, the first respondent has not paid the salary till-date. In support of the pleadings, necessary documents are appended to the writ petition.

5. In the premise of the pleadings of the petitioner and the supporting material and in the absence of any contra-pleading or material placed by the respondents, the refusal of the respondents to pay salary from the relevant period should be condemned as illegal and arbitrary. The first respondent, as directed by the District Educational Officer, Guntur and also by the Deputy Inspector of Schools (Urban Range), Guntur, should have treated the period of suspension of the petitioner as on duty and should have paid the salary and other allowances for the period from 6-7-1990 to 21-1-1991.

6. In the result, the writ petition is allowed and a direction shall issue to the first respondent to treat the suspension period of the petitioner as on duty and to pay salary and other admissible allowances to him for the period from 6-7-1990 to 21-1-1991 within a period of one month from today. The petitioner is also entitled to the costs of this writ petition, quantified at Rs. 2,000/-, payable by the first respondent to the petitioner within 10 days from today.