

THE HON'BLE SRI JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT APPEAL No.580 of 2007

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JUDGMENT: (Per Hon'ble Sri Justice A.Ramalingeswara Rao)

This Writ Appeal is directed against the order of the learned single Judge in W.P.No.16321 of 1996 dated 01.05.2007.

The Writ Petition was filed by the respondent herein seeking a direction to the appellant herein to fix his pay in the category of Class II officer of A.P.State Cooperative Central Bank, by giving benefits of merger of interim relief of Rs.326/- with basic pay and grant all consequential benefits. Initially, the respondent was working as Assistant General Manager in the District Cooperative Central Bank at Kadapa and he was promoted as Class II officer and was posted as Deputy General Manager in the District Cooperative Central Bank Limited, Srikakulam. While he was working as Assistant General Manager at Kadapa, he was drawing the following amounts:

“a) Basic pay : Rs.1090.00

b) Personal pay : Rs. 52.00

c) D.A : Rs.2912.10

d) H.R.A : Rs. 48.00

e) Interim relief : Rs. 324.30

Rs.4426.40”

After his selection and appointment as Deputy General Manager, his

basic pay was fixed at Rs.2330/- apart from F.P.Incentive, D.A, H.R.A and C.C.A. A letter was issued to him on 24.05.1988 while fixing his pay on promotion clearly stating that no interim relief would be allowed and the interim relief extended to the Cooperative Central Bank will not be extended in the cadre. The said letter was not challenged by the respondent herein. However, he filed the above Writ Petition seeking the relief as stated supra.

The learned single Judge allowed the Writ Petition filed by the respondent holding that the non-extension of interim relief for the purpose of salary appeared to be illogical. He also held that though the interim relief was a temporary measure, it is a part of basic pay drawn by the respondent, and as such, he was entitled for protection of the interim relief along with basic pay and D.A. drawn in the lower category of Assistant General Manager. The learned single Judge while coming to the said conclusion has not gone through the averments made by the appellant herein in the counter affidavit before him. In the counter affidavit, the appellant specifically stated under what circumstances the interim relief was granted and how the same was denied when the respondent herein was selected by the common cadre post as a Class II officer. The relevant portion is as follows:

“...As the wage revision of District Cooperative Central Banks was pending for some time, interim relief was sanctioned by the respective banks and the petitioner herein drew an interim relief of Rs.324.30 at the time of his selection to the common cadre post i.e., Class-II Officer. No interim relief was extended to the common cadre officers in their scales of pay as there is no wage revision pending in their case...”

The counter affidavit further states in paragraph 10 thereof as follows:

“It is submitted that the interim relief is not extended to Class II Officers and as such once the petitioner was selected as Class II Officer, the question of extending the interim allowance which he has been drawing in the feeder category does not arise and the Class II Officer post is a selection post and appointments to Class II Officer posts are by selection and not by promotion. The scale of the petitioner was fixed as indicated below in the time scale.”

It is also necessary to point out that the respondent even after receiving the letter dated 24.05.1988, approached this Court after lapse of about 18 years

claiming the relief without challenging the letter intimating him the fixation of pay consequent to his promotion as Deputy General Manager.

In the circumstances, we feel that the learned single Judge committed error in allowing the Writ Petition. In view of the same, the Writ Appeal is allowed, and the order of the learned single Judge is set aside. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

16.04.2015

vs

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