

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

W.P. No.31447 of 2014

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Pursuant to a departmental enquiry held against him, the first respondent herein was imposed the punishment of stoppage of two increments with cumulative effect. He retired from service on 31.12.2005. While computing his pension, the first respondent was denied the benefit of those two increments which were disallowed earlier as a measure of punishment.

The first respondent invoked the jurisdiction of the Andhra Pradesh Administrative Tribunal (for short 'Tribunal') in the year 2014, more than eight years after he retired from service on 31.12.2005. By its order dated 19.06.2014, the Tribunal, following its earlier order in O.A.No.10436 of 2008 dated 09.04.2009, allowed the O.A. in terms thereof. In its order, in O.A.No.10436 of 2008 dated 09.04.2009, the Tribunal noted the admission of the Learned Government Pleader that the punishment given to the applicant therein was prior to issuance of G.O.Ms.No.252 dated 29.08.2006; and the said amendment was prospective in its application. The impugned order, whereby the applicant therein (first respondent herein) was denied the benefit of two increments for the purpose of computation of his pension, was set aside.

Before this Court, Learned Government Pleader for Services would submit that, in terms of Fundamental Rule (F.R.) 24 of the Andhra Pradesh Fundamental Rules, an employee's pension is required to be computed on the salary last drawn by him; the punishment of stoppage of two increments with cumulative effect meant that the salary drawn by the first respondent, on the eve of his retirement, did not include these two increments; consequently his

pension was rightly fixed after excluding these two increments; the first respondent is not entitled for the benefit of inclusion of these two increments in the computation of his pension; and, even otherwise, the first respondent, having retired from service on 31.12.2005, is disentitled from claiming inclusion of these two increments, in the computation of his pension, nearly 8½ years after he retired from service.

F.R.24 was amended, and the amendment was notified in G.O.Ms.No.252 dated 29.08.2006. The amendment was made in the exercise of the powers conferred by the proviso to Article 309 of the Constitution of India. Consequent on the amendment to F.R.24, the following words were added at the end of Ruling 4 in clause (a) thereof. The addition reads as under:

“However where the major penalty of stoppage of annual grade increments with cumulative effect is imposed on the Government servant, such increments will not be restored and will have effect on the officer’s pension also.”

By the amendment to F.R.24, it has been made clear that where a major penalty, of stoppage of annual grade increments with cumulative effect, is imposed on the Government servant, such increments will not be restored and will have effect on the officer’s pension also. There is nothing in G.O.Ms.No.252 dated 29.08.2006 which indicates that either the amendment is clarificatory in nature or that it has retrospective operation. Consequently, the amendment to F.R.24, as notified in G.O.Ms.No.252 dated 29.08.2006, would apply only to those employees who retired from service thereafter, and not prior thereto. The first respondent retired from service on 31.12.2005, before F.R.24 was amended.

Accepting the submission of the Learned Government Pleader for Services that, even in the absence of the amendment, F.R.24 disabled an employee from claiming the benefit of increments in the computation of his pension, which were stopped as a measure of punishment prior to his retirement from service, would render the amendment redundant. While interpreting the provisions of an Act or a

Rule, no word or part thereof can be read as *inapposite surplage*. The very fact that F.R.24 was amended goes to show that the rule making authority intended to deny the benefit of increments to the government servant, even after his retirement from service, in cases where the penalty, of stoppage of increments with cumulative effect, is imposed on him. It is only because the benefit of such increments could not be denied earlier, was F.R.24 amended. This submission of the Learned Government Pleader does not merit acceptance.

While we find considerable force in the submission of the Learned Government Pleader that the first respondent was not entitled to be granted the relief sought for as he had invoked the jurisdiction of the Tribunal more than 8½ years after he retired from service, Sri K.R.Srinivas, Learned Counsel for the first respondent, would draw attention of this Court to several orders passed by the Tribunal in O.A.No.9949 of 2012 dated 18.12.2012; O.A.No.6446 of 2012 dated 16.08.2012; O.A.No.4684 of 2013 dated 24.06.2013; and O.A.No.1315 of 2014 dated 25.02.2014; wherein similar directions was issued and, in all the aforesaid cases, the order of the Tribunal were implemented. Having implemented the orders of the Tribunal in several cases, where also the jurisdiction of the Tribunal was invoked belatedly, the petitioners cannot now be heard to contend that the first respondent herein should be denied a similar relief.

The Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

Date:10.02.2015

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