

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No. 38855 of 2015

DATED 7TH December, 2015

BETWEEN

P.Muni Bhushan Rao

...Petitioner

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Department of Municipal Administration,
Secretariat, Hyderabad and ors.

...Respondents.

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No. 38855 of 2015

ORDER: (Per Hon'ble Sri Justice G.CHANDRAIAH)

We have heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents. Perused the material made available on record.

The petitioner is a retired employee. Pursuant to submission of pension papers of the petitioner by the third respondent, the fourth respondent gave certificate dated 3.8.2001 to the effect that the petitioner has not drawn any anticipatory pension and gratuity, but noticed that the petitioner

has drawn provident fund of Rs.1,15,366/- in excess of his entitlement and thereby ordered for recovery of the said amount from the gratuity amount payable to the petitioner. Aggrieved by the same, the petitioner filed O.A.No.8788 of 2001 before the Andhra Pradesh Administrative Tribunal and the same was disposed of by order dated 3.1.2002 directing the respondents to take necessary steps with regard to conducting of an enquiry for the alleged irregularity against the petitioner and also for release of his pensionary benefits, if he is otherwise entitled to such release after the enquiry. Pursuant to the same, the third respondent conducted an enquiry by following the due procedure and concluded that the petitioner has drawn Rs.1,18,865/- over and above of his entitlement. Pursuant to the same, the third respondent issued notice dated 12.09.2002 directing the petitioner to repay the said amount or else, the same would be deducted from the pension and gratuity payable to him (petitioner). Questioning the same, the petitioner filed O.A.No.10341 of 2002 before the Andhra Pradesh Administrative Tribunal. The said OA was allowed through order dated 4.3.2009 by setting aside the notice dated 12.09.2002 and directing the third respondent to conduct fresh enquiry in the matter after obtaining permission from the Government and pass appropriate orders in accordance with law. However, the third respondent has not conducted any fresh enquiry in terms of the said order. It was the case of the petitioner that pension and gratuity are not attachable nor can they be withheld except as provided in Andhra Pradesh Revised Pension Rules, 1980. Challenging the action of the third respondent in not conducting fresh enquiry in terms of the order dated 4.3.2009 passed in O.A.No.10341 of 2002, the petitioner once again approached the

Andhra Pradesh Administrative Tribunal and filed OA.No.6844 of 2011. The said OA was disposed of through order dated 13.3.2013 directing the respondents to complete and conclude the proceedings against the petitioner within a period of three months failing which disciplinary proceedings shall be deemed to be dropped and the gratuity and other retirement benefits payable to the petitioner shall be released. It was further directed that the petitioner should cooperate with the enquiry. Pursuant to the said order, the petitioner submitted his representation on 3.7.2013 requesting to release the gratuity, pension and other retirement benefits. When no action has been taken, the petitioner initiated contempt proceedings in CA.No.2226 of 2013. During the pendency of the contempt proceedings, the third respondent released the amounts payable to the petitioner vide proceedings dated 5.4.2014. Pursuant to the same, the Tribunal closed the contempt proceedings in CA.No.2226 of 2013. Though the petitioner demanded interest for withholding of the amount payable to him from 3.8.2001 to 17.06.2014, the Tribunal however declined to take into consideration the same.

It is submitted by the learned Counsel for the petitioner that the petitioner is entitled to interest under law and that though there is no fault on the part of the petitioner, the respondents illegally and arbitrarily withheld the amounts payable to him for nearly thirteen years. The learned Counsel for the petitioner therefore urges that the action of the Tribunal in declining to consider the same does not stand to scrutiny.

Pertinent to see, if the rules/instructions are followed

strictly much of the litigation can be avoided and retired government servants will not feel harassed because after all, grant of pension is not a bounty but a right of the government servant. Government is obliged to follow the Rules in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. In the present Writ Petition the petitioner seeks payment of interest on the delayed payment of pensionary benefits. Though it is the case of the petitioner that the petitioner is entitled to be paid interest on the delayed payment of retiral benefits, on the other hand, the learned Government Pleader submits that due to pendency of the enquiry and legal battle undertaken by the petitioner/applicant before the Tribunal, there was delay in payment of retiral benefits.

In view of all these facts, in our opinion, it would be in the interest of both the parties that we may direct the respondents to consider the matter on merits and pass an appropriate order in accordance with law. We are mindful that the petitioner is a senior citizen and the prayer relates to interest on retiral dues paid to him after thirteen years. Keeping in view the totality of facts and circumstances, we request the respondent authorities to give priority to the case and decide it finally as expeditiously as possible.

In view of the foregoing discussion and having regard to the submissions made by the learned Counsel on either side, we are inclined to dispose of the Writ Petition directing the petitioner to make a detailed representation with regard to payment of interest for the period for which the respondents

have withheld the pensionary benefits within a period of one month from the date of receipt of a copy of this order and within two months thereafter, the respondents are directed to consider and dispose of the same in accordance with law.

Subject to the above, the Writ Petition is disposed of at the admission stage. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE G.CHANDRAIAH

JUSTICE U.DURGA PRASAD RAO

DATED 7TH DECEMBER, 2015. .
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