THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No. 1885 of 2005

ORDER: (per Hon'ble Sri Justice G. Chandraiah)

This writ petition is filed by the Government questioning the orders dated 16.12.2003 in O.A.No.5864 of 1999 on the file of the Andhra Pradesh Administrative Tribunal. The petitioners herein are the respondents and the respondent herein is the applicant in the said O.A.

2. Brief facts of the case are as under:

The applicant retired from Government Service on 31.05.1998 in the capacity of Superintendent from the Office of the District Vocational Education Officer, Warangal, on attaining the age of superannuation. He submitted his pension papers on 10.07.1998, along with all required documents, to the District Vocational Education Officer, so that the same can be forwarded to the Commissioner of Collegiate Education, Andhra Pradesh for processing and sanction of pension and the District Vocational Education Officer has sought a clarification from the Regional Joint Director of Higher Education as to whether any dues or charges are pending against the applicant. It is the allegation of the applicant that the District Vocational Education Officer has sought such clarification deliberately with a view to delay the processing of his pension papers. It is his grievance that due to the delay, he received his pension after eight months of his retirement and therefore the respondent authorities are liable to pay interest for such delayed payment of pensionary benefits as per Rules.

The Tribunal disposed of the O.A., observing as under:

> **"In similar case in O.A.No.7832 of 1997, this Tribunal has observed that interest is liable to be paid on delayed payment of retirement and gratuity @ 7% per annum for the period beyond three months and upto one year and beyond one year @ 10% per annum. The Apex Court in W.P.No.8387/1996 granted interest @ 12% per annum. It is held that the applicant is entitled for interest @ 12% per annum for the period beyond three months from the date of his retirement.**
>
> **So, following the above judgment, the applicant is also entitled for the same benefit. The amount which has to be paid to the applicant should be initially recovered from the authority who is responsible to pay the amount to the applicant and it should be paid to the applicant within a period of three months from the date of receipt of a copy of this order and the said amount be paid initially by the Government. Accordingly, the O.A., is disposed of. No costs.**
>
> **Office is directed to enclose a copy of the order issued by this Tribunal in O.A.No.7832/1997 to this order."**

3. Aggrieved by the orders of the Tribunal, the Government filed this writ petition mainly on the ground that the respondent herein/employee though retired on 31.05.1998, submitted his pension papers only on 13.07.1998 vide his letter dated 10.07.1998 to the concerned officer. So there was a lapse of one and a half months on the part of the employee in submitting his pension papers after his retirement.

4. Heard the learned Government Pleader for the petitioner and the learned counsel for the respondent-employee.

5. This Court, while ordering Rule Nisi on 08.02.2005, granted interim suspension of the impugned orders.

6. Learned Government Pleader draws our attention to the Procedure for Processing of Pension Cases under Appendix-I of the A.P. Revised Pension Rules, 1980, which reads as under:

> **"2. Submission of formal application for pension:- (a) Every Government servant shall submit, the following forms duly filled in, 18 months in advance to the date of his actual or anticipated retirement. However, in cases where the date of retirement cannot be foreseen 18 months in advance, the forms shall be submitted immediately after the date of retirement is settled."**

7. A perusal of the extracted portion with regard to the procedure contemplated for processing of pension case would show that a person has to submit his pension papers 18 months in advance to the date of his retirement, and if the date of retirement could not be foreseen, he shall submit his pension forms immediately after his date of retirement is settled.

8. In the instant case, it is not in dispute that the respondent-employee retired from service on attaining the age of superannuation i.e., on 31.05.1998, and hence the respondent-employee is aware of his date of retirement well in advance and hence, as enumerated in paragraph 2 of the Appendix extracted above, he should have submitted his pension papers 18 months prior to the date of his retirement, instead he submitted his pension papers subsequent to the date of his retirement i.e. on 13.07.1998 i.e., with a delay of one and half months. In that view of the matter, it cannot be held that the petitioner was liable for the delay in processing of pension papers and delayed payment of pension to the respondent. Hence, the orders impugned are liable to be set aside.

9. Accordingly, the writ petition is allowed and the orders dated 16.12.2003 in O.A.No.5864 of 1999 are hereby set aside. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

U. DURGA PRASAD RAO, J

01st December, 2015

ksm

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

-
-
-
-
-
-
-
-
-

WRIT PETITION No. 1885 of 2005

01st December, 2015

ksm