THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 1026 OF 2015

O R D E R:

The petitioner herein sought for a writ of mandamus for declaring the inaction of the 1st respondent, Andhra Pradesh Grameena Vikasa Bank Limited, Warangal at Hanamkonda in withholding the terminal benefits of the 2nd respondent, on his retirement on 30.01.2015, as illegal and to consequently, direct the 1st respondent to withhold the terminal benefits or at least 50% of the terminal benefits, so that the same can be deposited before the Judicial Magistrate of I Class at Mahabubnagar in D.V.C. Case No. 1 of 2014.

Heard learned counsel for the petitioner.

This Writ Petition is a hopelessly misconceived case. The petitioner claims the status of wife of the 2nd respondent. The 2nd respondent, as I could gather, is likely to retire from the service of the 1st respondent bank on 30.01.2015, as claimed in the Writ Petition. Even assuming that he would be retiring from service of the 1st respondent bank on attaining the age of superannuation on 31.01.2015, the right for him to receive the necessary terminal benefits would accrue thereafter. No terminal benefits would be settled unless the employee ceases to be so either by virtue of attaining the age of superannuation or otherwise terminating the contract of employment with the 1st respondent bank. Insofar as the gratuity and provident fund, which form part of the terminal benefits of an employee, the same are liable to be settled, as expeditiously as is possible.

As per Section 4(3) of the Payment of Gratuity Act, 1972 (for short, 'the Act'), a ceiling has been fixed as to the maximum amount of gratuity that is payable to an employee at Rs.3,50,000/-. The amount of gratuity shall be arranged to be paid within 30 days from the date it becomes payable to the person, as per sub-section (3) of Section 7 of the said Act. Sub-section (3A) thereof, in clear and categorical terms, has spelt out that if the amount of gratuity payable under sub-section (3) is not paid by the employer, within the period specified in the said sub-section, the employer shall pay from the date on which the gratuity becomes payable to the date on which it is paid simple interest at the rate specified by the Central Government, which is normally the same rate as that of payment on long term deposits is. It is therefore, more than clear that a statutory obligation is cast upon every employer to disburse the gratuity amount within a period of 30 days from the date on which it becomes so payable. Failure to disburse the gratuity amount visits the employer with a penal consequence of payment of the same with simple interest. Therefore, if the prayer of the petitioner is acceded to, that would be contrary not only to the provision contained in sub-section (3) of Section 7 of the 1972 Act, but would, in fact, visit the 1st respondent bank with an additional obligation to disburse the said amount with interest to the 2nd respondent. Therefore, contrary to a statutory provision, the petitioner seeks a writ of mandamus, which cannot be granted.

Similar is the effect with regard to the payment of provident fund as well. Therefore, I have no hesitation to dismiss this Writ Petition at the admission stage and it is accordingly, dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

27th January 2015

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