

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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AND

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THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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WRIT PETITION No. 40750 of 2015

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

This writ petition is filed questioning the orders dated 07.08.2015 in O.A.No.020/00953/2014 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad. The petitioners herein are the respondents and the 1st respondent herein is the applicant in the said O.A. before the Tribunal.

2. The 1st respondent/applicant filed the aforesaid O.A., seeking to call for records relating to letter No.E/General/Retire-Death/10-13/61, dated 27.05.2014, and declare the same as arbitrary, discriminatory and contrary to law, and consequently direct the respondents to sanction the pension, gratuity and other retiral benefits to her with effect from 01.06.2014, and also to pay all the consequential benefits and also interest on the pensionary benefits at the rate of 18% per annum with effect from 01.06.2014.

3. It is the case of the applicant that she was appointed in the Telecom Department (now called as "Bharat Sanchar Nigam Limited") on 20.03.1981, as a Telecom Office Assistant in Telecom District at Tirupathi. She submitted all the relevant certificates to the 2nd respondent, including Caste Certificate on 22.10.1977 which was issued by the Tahsildar, Puttur Taluk, Chittoor District. She stated that she mentioned her caste as 'Achary', which is recognised as a Scheduled Tribe. However, in her Appointment Order, it was not

mentioned whether she was appointed under General category or special category. Thus, the applicant's case is that she was under a *bona fide* impression that she was selected on merit in view of her brilliant academic career, and she has not claimed any benefits applicable to special category. While so, on the representation made by the Federation of SC/ST Telecom employees, Tirupathi, the District Collector, Chittoor, issued proceedings dated 30.10.2004 cancelling her Caste Certificate. Consequent to the cancellation of her caste certificate, the SC/ST Employees Association started pressurising the 2nd respondent to discontinue her from service. Apprehending that the 2nd respondent may discontinue her from service at the instance of SC/ST Employees Association, she filed a writ petition and subsequently a writ appeal in W.A.No.1800 of 2004 before this Court, and interim orders were passed directing the 2nd respondent to continue the applicant in service until further orders. This Court, vide judgment dated 26.12.2005 granted one months' time to the applicant to avail the remedy of appeal before the Government and also directed the 2nd respondent to continue her in service till the appeal is disposed of by the Government. Accordingly, the applicant filed an appeal on 18.01.2006 against the proceedings of the District Collector dated 31.10.2004. The Government vide orders dated 26.12.2007 rejected her appeal and confirmed the proceedings of the District Collector, Chittoor, dated 31.10.2004. Aggrieved by the rejection of appeal, the applicant approached this Court by filing W.P.No.535 of 2008. This Court, vide orders dated 17.01.2008, granted interim stay pending disposal of the writ petition, and the interim stay was subsequently made absolute. The grievance of the applicant was that though it is a fact that the matter is pending before this Court in WP No.535 of 2008, her pensionary benefits were withheld by the respondents on the sole ground that the writ petition is pending. She issued a legal notice on 17.06.2014 to the respondents to sanction pay, pension, gratuity and

other pensionary benefits, but the respondents gave evasive reply. It is her contention that since she was directed to retire from service on attaining the age of superannuation, the respondents cannot withhold her pensionary benefits on the ground of pendency of writ petition.

4. The learned Central Administrative Tribunal, after hearing both the sides, has opined that in the instant case, no departmental or judicial proceedings were initiated against the applicant either during her service or after her retirement, and hence, no departmental or judicial proceedings are pending against the applicant as stipulated under Rule 9(6) of the CCS (CCA) Rules, 1972, and therefore the respondents are not justified in withholding her pensionary benefits on the ground of pendency of WP No.535 of 2008 before this Court. The Tribunal, while allowing the OA., held as under:

“In the result, the respondents are directed to pay provisional pension with 8% interest from 01.06.2014 to the actual date of payment within a period of 10 days from the date of receipt of a copy of the order. The respondents are also directed to pay all other eligible retiral benefits due to the applicant at 8% interest within a further period of two months thereafter. However, in view of the fact that the final judgment on the caste status of the applicant is yet awaited, the respondents are at liberty to insist upon the submission of a bond or such other security as may be deemed appropriate before releasing the retiral benefits to the applicant.”

5. Heard learned counsel for the petitioners. None appeared for the respondents.

6. As can be seen from the impugned orders, the Tribunal directed the respondents to pay provisional pension with 8% interest from 01.06.2014 to the actual date of payment within ten days from the date of receipt of a copy of the Tribunal's order; and also directed to pay all other eligible retiral benefits due to the applicant at 8% interest within a

further period of two months thereafter. As the final judgment on the Caste status of the applicant is awaited, the Tribunal has given liberty to the respondents to insist the applicant to submit a bond or such other security, as may be deemed appropriate, before releasing retiral benefits to her. Hence, we do not find any illegality or irregularity in the order of the Tribunal warranting interference of this Court.

7. The writ petition is, accordingly, dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

U. DURGA PRASAD RAO, J

21st December, 2015

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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