

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

CONTEMPT CASE No.2014 of 2015

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ORDER: (per Hon'ble Sri Justice Nooty Ramamohana Rao)

The respondent No.1 in writ petition No.19189 of 2014 is the petitioner in this contempt case. He sought for initiation of the proceedings on the ground that the respondents have violated the order and judgment rendered in the above writ petition, by this Court.

Writ Petition No.19189 of 2014 itself is instituted by the respondents calling in question the correctness of the orders passed by the Andhra Pradesh Administrative Tribunal on 26.03.2014 in O.A.No.5307 of 2013. During the course of the order passed by this Court, it was noted that the disciplinary authority has not passed any order imposing any punishment and the proceedings initiated against the present petitioner herein were still kept pending. The question now required to be answered is whether or not an annual grade increment is liable to be sanctioned increasing the pay of the petitioner herein for the period he was placed under suspension.

It appears that the petitioner herein was placed under suspension on 08.02.2008, but however he was reinstated to duty on 07.12.2012 as the disciplinary proceedings have not reached a stage of imposition of punishment. Eventually, he was retired from service on attaining the age of superannuation and before his actual retirement, no punishment has also been imposed.

It is contended by the learned counsel for the petitioner that as per F.R.24, the

increment of the petitioner is liable to be released unless it is withheld by an order passed by the competent authority if, his conduct has not been good or his work has not been satisfactory. Learned counsel for the petitioner would, therefore, contend that an increment is liable to be granted as a matter of course unless it is withheld. Since no order withholding the increments has been passed, such increments during the period of his suspension are liable to be released.

Fundamental requirements for grant of an increment of pay are:

1. The fixation of the pay of the employee concerned in the running scale, in contrast to a fixed pay.
2. Upon completion of 12 months of satisfactory service.

It is, therefore, an essential requirement for an employee to earn increment that he should have rendered 12 months of continuous satisfactory service. In other words, as soon as he completes 12 months of satisfactory service, pay of such an employee is liable to be enhanced by the admissible amount of increment in the running scale of pay. When once an employee is placed under suspension pending enquiry or pending investigation into criminal cases, the relationship of Master and Servant gets suspended. Therefore, an employee placed under suspension can not render service to the employer though the relationship of employee-employer has not been brought to an end. It only gets confined to suspended animation. In such cases, an order under F.R.54-B (1) has to be passed by the employer/competent authority as to how to treat the period of suspension. In the event, the employee is not wholly responsible for the suspension, in such cases the period of suspension is liable to be treated as period spent on duty. Otherwise, if the employer/competent authority decides that the period of suspension shall not be treated as period spent on duty, but should be confined to the subsistence allowance already received, such an order specifying the same should be passed. Only in the event the period of suspension is ordered by the competent authority to be treated as period spent on duty, then by duly calculating successive 12 months period from the date of last increment that was sanctioned, the pay of the employee has to be raised by releasing one annual grade increment for every such 12 months period.

In the instant case, it appears, on the ground that the disciplinary proceedings have not yet been finalized, no order under F.R.54-B (1) has been passed. In these circumstances and also in view of the fact that the petitioner herein has already retired from the service on attaining the age of superannuation and he is stated to be suffering financially, it would only appropriate that the respondents should take a decision immediately under F.R.54-B and communicate the same to the petitioner and then regulate the follow-up action accordingly.

With this, the contempt case stands disposed of. No order as to costs.

The miscellaneous applications, if any shall also stand closed.

We hope and trust that appropriate decision under F.R.54-B would be taken within a maximum period of 2 months from the date of receipt of a copy of this order.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

16.11.2015

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