

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.27886 of 2014

ORDER:

1. This writ petition was filed challenging the action of the respondents in not paying pension, gratuity and interest on provident fund and seeking a direction to pay the said amounts by taking the service from 15.12.1986 to 12.02.2008.

2. The petitioner was appointed as Clerk-cum-typist in the respondent bank in the year 1986 and was promoted as Senior Assistant in the year 2004. While he was working in Palakonda Branch, he was placed under suspension on 08.05.2006. After due enquiry, he was removed from service by the 1st respondent by order dated 09.02.2008. The appeal against the said order was rejected on 06.06.2008. Challenging the same, the petitioner filed W.P.No.15514 of 2008 and the same was allowed by order dated 28.09.2011. Against the said order, W.A.No.1020 of 2011 was filed and the order in the said Writ Petition was suspended by order dated 24.11.2011. The said Writ Appeal is pending as on today. The petitioner states that though some superannuation benefits were given to him, pension was not paid on the ground that he has not completed 20 years of service. It is the case of the petitioner that his service should have been calculated by taking into consideration the date as 15.12.1986 instead of 15.06.1987, the date of confirmation. The said date was wrongly taken into consideration for the purpose of payment of gratuity and provident fund amounts. The petitioner submitted a representation on 25.06.2014 for payment of Rs.2,38,817/- as on 30.06.2014 and when no action was taken, the present writ petition was filed.

3. A counter-affidavit was filed by the respondents stating that the petitioner was appointed as Clerk-cum-typist on 15.12.1986 on probation for a period of six months and his services were confirmed with effect from 15.06.1987. Thereafter, he was promoted as Senior Assistant in the year 2005 and ultimately the petitioner was removed from service after

conducting a domestic enquiry. The final order of removal was passed on 09.02.2008. It is not correct to state that W.P.No.15514 of 2008 filed by the petitioner was allowed, but it was only partly allowed on 28.09.2011. The Writ Appeal No.1020 of 2011 filed by the respondent bank is pending before this Court. The provident fund account of the petitioner was commenced on 15.06.1987 and ended on 09.05.2006, the date on which he was placed under suspension. The petitioner addressed a letter on 09.10.2012 requesting the bank for payment of provident fund and gratuity amount, but he did not demand interest on provident fund and gratuity amount.

4. The facts in the case are not in dispute except to the extent of taking entry into service and the date of exit from service. The respondents have taken the date of regular appointment in service as 15.06.1987, whereas the petitioner states that he entered into service on 15.12.1986. They made calculations till the date of suspension on 09.05.2006 instead of taking the date of removal from service on 12.02.2008. This Court in W.P.No.15514 of 2008 passed an order on 28.09.2011 allowing the writ petition by modifying the punishment imposed against the petitioner to the one of reversion to the post of Clerk-cum-typist in the scale of pay, which he was drawing immediately before he was promoted to the post of Senior Assistant. However, in case of terminal benefits, it was held that it is open to the petitioner to refund the amount or seek adjustment thereof when he attains the age of superannuation. Now, the said order was suspended by a Division Bench of this Court in W.A.No.1020 of 2011 and the amounts of Rs.5,98,916/- towards Provident Fund and Rs.2,64,480/- towards gratuity were paid to the petitioner.

5. With regard to the date of entry into service and the date of exit from service, the matter has to be considered in the pending Writ Appeal and it will have a bearing on the grant of pension. As it is the case of the respondents that the petitioner has not completed 20 years of service in order to make him eligible to receive pension, it is open to the petitioner to put forward his case with regard to the pension and the reckoning of

date of entry into service in the pending Writ Appeal and no separate orders can be passed in the present writ petition.

6. The Writ Petition is accordingly disposed of. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

03-08-2016

Gsn