

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.13640 OF 2007

DATED:17-09-2016

Between:

N.S. Bhaskara Rao

... Petitioner

And

The APSRTC, rep. by its Vice-Chairman
and Managing Director, Musheerabad
Bus Bhavan, Hyderabad
and others

... Respondents

COUNSEL FOR THE PETITIONER: None appeared

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

ORDER:

This writ petition is filed for a mandamus to set aside proceedings No.P1/785(3)2000-RLPM, dt.16.4.2007, of respondent No.3, whereby he has directed recovery of a sum of Rs.21,866.55 ps. paid to the petitioner in excess of his entitlement, on account of fixation of wrong date for payment of annual increment.

This writ petition is second in succession, as the petitioner has earlier filed W.P. No.23639 of 2000 questioning the notice dt.28.3.2000, issued for recovery of the amount which was demanded under the impugned notice. A learned single Judge of this Court has disposed of the writ petition observing that a copy of the audit objections based on which the amount was sought to be recovered from the petitioner was not supplied to him, that the order of recovery was not preceded by any notice and that an opportunity of explaining his case by the petitioner was not given. Accordingly, while setting aside the previous notice a direction was given by this Court to the respondent - Corporation to furnish a copy of the audit objections, serve an appropriate notice upon the petitioner within four weeks from the date of receipt of the order, and pass a final order after assessing the excess amount paid to the petitioner. In the aftermath of the disposal of the said writ petition, a notice was issued on 22.5.2006, enclosing audit objections and calling upon the petitioner to submit his objections, if any. Accordingly, the petitioner has submitted his objections in the form of explanation dt.16.6.2006 which was considered by respondent No.3 and the impugned order was passed. While rejecting the plea of the petitioner that excess amount paid to him shall be recovered from the personnel of the DM's office and not from the

petitioner, it was observed that due to oversight a mistake occurred in fixing the date for payment of increment.

At the hearing, Mr. S.M. Subhan, learned counsel for the petitioner, has not disputed the fact that the mistake did occur on account of which his client had the benefit of excess amount. The only submission advanced by him is that respondent No.3 is not entitled to recover the excess payment twenty five years after the payment was made. I am afraid, such a plea is not available to the petitioner in the present writ petition because the demand issued by respondent No.3 which was assailed in W.P. No.23639 of 2000, was not questioned on that ground in the said writ petition. Having not raised such a ground and got the demand invalidated in the previous writ petition, the petitioner is not entitled to raise such a plea in the present writ petition.

In view of the above, I do not find any legal infirmity in the impugned order. However, respondent No.3 is permitted to recover the excess amount from the monthly salary of the petitioner over a period of six months commencing from 1st October, 2016.

Subject to the above directions, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, interim order dt.28.6.2007 passed in W.P.M.P. No.17104 of 2007 shall stand vacated and the said application shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

17-09-2016

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