

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No. 21919 OF 2014

ORDER:

This Writ Petition is filed to declare the action of the respondents in reducing the basic pay from Rs.21,090/- to Rs.20,300/- while making payment of gratuity and other service benefits like un-availed earned leave salary of 217 days and other benefits after retirement from service on 31-12-2013 as illegal and arbitrary and consequently direct the respondents to pay the amount the petitioner is entitled.

The petitioner is retired from the 4th respondent depot as Superintendent (Mechanical) and his grievance is only for payment of less amount towards retirement benefits under various heads.

The petitioner obtained *interim* order dated 04-09-2014, whereby the respondents are directed to pay Rs.26,276/- and Rs.1,47,347/- to the petitioner. According to the petitioner, the respondents have complied with the direction as the petitioner moved a contempt application against the respondents. When the matter is taken up for hearing, learned counsel for the petitioner made the following endorsement:

"In view of the compliance of interim orders, the main Writ Petition may be disposed of."

It is settled law that jurisdiction of Courts under Article 226 of the Constitution of India cannot be invoked for obtaining *interim* order and when such an *interim* order was granted and failed to prosecute proceedings, the *interim* order is deemed to have been neutralized and it will have no effect. Courts are time and again directed to pass necessary order to neutralize *interim* order on dismissal of main Writ Petition for non-prosecution or otherwise. Therefore, this Court is bound to pass necessary order neutralizing the *interim* order dated 04-09-2014 making it ineffective. In such case, the principle of restitution can be applied and the petitioner can claim

restitution subject to entitlement.

In view of the endorsement of learned counsel for the petitioner, the Writ Petition is dismissed giving liberty to the petitioner to take appropriate steps for restitution as the *interim* order is neutralized or has become ineffective on dismissal of the main Writ Petition. Pending miscellaneous petitions, if any, in this Writ Petition shall stand dismissed in consequence. No order as to costs.

M.SATYANARAYANA

MURTHY, J.

Date: 18th April, 2016.

JSK