

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON' BLE SRI JUSTICE G. SHYAM PRASAD

Writ Petition No.1944 of 2016

ORDER: (*per Hon'ble Sri Justice V. Ramasubramanian*)

The Railway Administration has come up with the present writ petition, challenging the order passed by the Administrative Tribunal, setting aside a recovery sought to be made from the terminal benefits of the 1st respondent to the tune of Rs.30,18,748/-.

2. Heard Sri Poluri Bhaskar, learned counsel for the petitioners and Sri Siva, learned counsel for the 1st respondent.

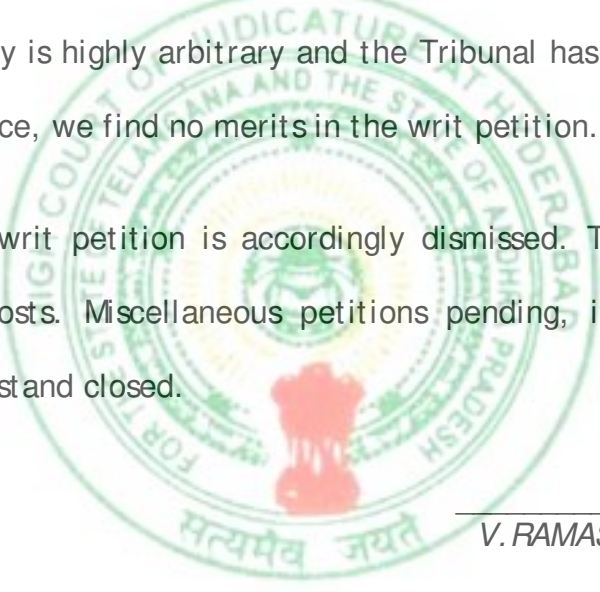
3. The case of the Railway Administration is that when the 1st respondent was about to retire on 31.01.2012, the concerned authorities sought departmental clearances and no due certificates from all the units, where the 1st respondent earlier worked. It appears that three accounts notes were kept pending against the 1st respondent relating to the stores debits to the tune of Rs.39,73,819/-. Therefore, after retaining an amount of Rs.9,55,071/- towards last wages, leave salary and death cum retirement gratuity, the petitioner initiated action for recovery of the balance amount. Challenging the said proceedings, the 1st respondent went before the Tribunal and the Tribunal allowed the application. Therefore, the Railway Administration is before us.

4. Admittedly, recovery sought to be made relates to three accounts notes of the year 2002. The 1st respondent retired on reaching the age of superannuation on 31.01.2012. Till the date of his retirement, no disciplinary proceedings were initiated under the Railway Servants

(Discipline and Appeal) Rules, 1968. Even after retirement, no proceedings were initiated under Railway Services (Pension) Rules.

5. Recovery of such a huge amount of Rs.39.00 lakhs, cannot be made without any proceedings. This is especially so when such a recovery is said to be made on the basis of accounts notes of a period ten years prior to the retirement of the 1st respondent. Moreover, the Tribunal pointed out that there were seven audits conducted during the period from 2002 to 2012. Nothing has turned out from the reports of the auditors. Therefore, if such recovery is ordered, the 1st respondent will have to take rebirth and work in the railways to repay the amount. Such a recovery is highly arbitrary and the Tribunal has rightly set aside the order. Hence, we find no merits in the writ petition.

6. The writ petition is accordingly dismissed. There will be no order as to costs. Miscellaneous petitions pending, if any, this writ petition, shall stand closed.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

Date: 14.11.2016
BSS

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Date: 14.11.2016

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