

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR.) No.207 of 2017

Date: June 21, 2017

Between:

Dr. G. Hanumandlu, S/o.late G.Rajamalliah,
Age:60 years, Civil Surgeon/Principal (Retd.)
Regional Health & Family Welfare Training Centre,
Sultan Bazar, Hyderabad.

... Petitioner

And

The Government of Andhra Pradesh, rep. by its
Principal Secretary, Health, Medical & Family
Welfare (VC.III) Department, A.P.Secretariat,
Hyderabad and others.

... Respondents

This court made the following



ORDER:

Petitioner retired from service on 28.02.2011 on attaining the age of superannuation as Civil Surgeon/Principal. While he was in service, two disciplinary proceedings were initiated vide G.O.Rt.No.1218 dated 03.09.2007 and G.O.Rt.No.373 dated 24.03.2008. During the pendency of these disciplinary proceedings, petitioner retired from service.

2. On 16.07.2012, Government passed two separate orders in G.O.Rt.No.1021 and G.O.Rt.No.1019, closing the disciplinary proceedings respectively. From the reading of these two G.Os., it appears that with reference to the disciplinary action initiated on 03.09.2007, Government, after considering the report of the enquiry officer, by giving benefit of doubt, decided to drop further action. With reference to the charge relating to the year 2008, though charge was held proved by the enquiry officer, taking note of the fact that the charge alleged and as held proved by the enquiry officer is minor in nature and that the petitioner has since retired from service, Government dropped further action.

3. Since the disciplinary proceedings are now dropped, petitioner contends that he is entitled to interest on the delayed payment of retirement benefits. Hence, O.A.No.417 of 2013 is instituted, which is now transferred to this Court.

4. Heard Sri T.P.Acharya, learned counsel for the petitioner and learned Government Pleader for Medical and Health (Ser.) on behalf of the respondents.

5. Learned counsel for the petitioner contends that for no fault of the petitioner, disciplinary proceedings initiated in the years 2007 and 2008 continued till the year 2012. He further contends that as the disciplinary proceedings are dropped, it would mean that the charges were falsely made and on the ground of pending disciplinary proceedings, the retirement benefits were not paid to him and therefore he is entitled to interest on the delayed payments. According to the learned counsel for the petitioner, the retirement benefits were actually paid on 14.12.2011 though petitioner retired on 28.02.2011 and therefore there is delay of more than 9 ½ months in settling the retirement benefits. In support of his contention that petitioner is entitled for interest for delayed payment of retirement benefits, he placed reliance on a decision of this Court dated 23.08.2006 in **Chief Executive Officer, Zilla Parishad v. Smt.B.Varalakshmi and ors.**¹

6. Learned Government Pleader submits that petitioner was not exonerated in the disciplinary proceedings; for the special reasons assigned in the two G.Os., two disciplinary proceedings were dropped; thus it is not a case of exoneration, for the petitioner to claim interest on delayed payment of retirement benefits. As the two G.Os., issued by the Government are not under challenge and they have become final, it cannot be said that petitioner was exonerated fully, in order to make a claim for interest on the alleged delayed payment of retirement benefits.

7. The only issue for consideration in the facts and circumstances of the case is whether petitioner's claim for interest on the delayed payment of retirement benefits is valid.

¹ 2006 (5) ALT 716

8. As noted above, two disciplinary proceedings were ultimately concluded on 16.07.2012. A reading of G.O.Rt.No.1021 would disclose that Government took note of the fact of retirement of the petitioner and having considered report of the enquiry officer, dropped further action against him by giving benefit of doubt. A reading of the said order would show that Government dropped the disciplinary proceedings only by giving benefit of doubt to the petitioner. Similarly, with reference to the other disciplinary proceedings, though the charge was held proved, taking note of the allegation leveled and proved as minor, the Government decided to drop further action. Thus, it cannot be said that there was complete exoneration of the allegations leveled against the petitioner. Petitioner has accepted Government decisions made on 16.07.2012. Thus, having accepted Government decisions, it is not open to the petitioner to contend, in the face of those two orders, that he is exonerated of the allegations and therefore he is entitled to interest. Furthermore, it is not a case of false implication of the petitioner and continuation of disciplinary proceedings only with an intention to harass and humiliate him and under the guise of continuation of the proceedings, there was delay in settlement of retirement benefits. In the facts and circumstances of the case, it cannot be said that the disciplinary action was erroneously initiated against the petitioner. The decision relied on by the learned counsel for the petitioner does not come to his aid, as facts narrated in para-2 of the judgment would disclose that disciplinary proceedings were initiated in the year 1988 and continued for a long time, i.e., for 1 ½ year after the retirement of the employee and even provisional pension was not paid. Only after an order was passed by the Hon'ble

Lokayukta, provisional pension was paid. The disciplinary proceedings were ultimately dropped after 4 ½ years of retirement. The facts narrated in para-2 do not disclose that the dropping of disciplinary proceedings was identical to the dropping of disciplinary proceedings in the instant case. In the facts of the case, the Tribunal directed payment of interest for the delayed payment of retirement benefits and the said decision was upheld by this Court.

8. Having regard to the facts noted above and in the peculiar facts and circumstances of this case, it cannot be said that the disciplinary proceedings were initiated only to harass the petitioner and that he was illegally denied the settlement of retirement benefits soon after his retirement, warranting acceptance of his claim for payment of interest.

9. I see no merit in the writ petition and the same is accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions if any pending stand closed.

P. NAVEEN RAO, J

June 21, 2017
MRR