

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.4997 OF 2017

DATED : 08.03.2017

Between :

M.A.Azeez S/o.Late (Sri) Mohd. Abdul Nabi,
Age 60 yrs, Occu : Tahsildar (Retd.),
R/o.H.No.3-3-36/42, Kutubshahi Road,
Nalgonda District.

..
Petitioner

And

State of Telangana,
Rep., by its Secretary to Government,
Revenue Department,
Secretariat, Hyderabad & others.

..
Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.4997 OF 2017****ORDER :**

Heard.

2. Petitioner retired from service on attaining the age of superannuation on 31.12.2015. On his retirement petitioner was granted provisional pension, in exercise of power under Rule 52 (1) (a) (b) of Andhra Pradesh Revised Pension Rules, 1980 (for short 'the Pension Rules'). In this writ petition petitioner challenges proceedings dated 14.07.2016 whereunder petitioner was informed that he is entitled to provisional pension @ 75% since disciplinary proceedings are pending finalization.

3. Learned counsel for the petitioner contends that no disciplinary proceedings were initiated and pending before the retirement of petitioner. Therefore, granting only provisional pension and not granting the retirement benefits and 100% monthly pension is illegal.

4. On instructions, learned Government pleader, submits that no charge sheet was issued. However he submits that while retiring the petitioner from service, it was clearly informed to the petitioner that his retirement is without prejudice to initiation of disciplinary proceedings. He therefore, submits that there is no illegality in paying only provisional pension.

5. According to Rule 9 (6) of the Pension Rules, disciplinary proceedings are stated to be pending only when a charge memo is issued in the departmental proceedings or a charge sheet is filed in criminal proceedings. Admittedly, on the date of retirement neither

departmental proceedings are initiated by issuing charge sheet nor criminal proceedings are pending after filing of charge sheet. Therefore, denial of pension and other retirement benefits merely on the ground that there was contemplation of disciplinary action is not legal and valid and contrary to the provisions of the Pension Rules. Thus, the action of the respondents in not granting full retirement benefits and only granting provisional pension is ex-facie illegal.

6. Having regard to the above observations, the Writ Petition is allowed and the order impugned is set aside. The respondents are directed to grant all retirement benefits as admissible, to the petitioner. However it is made clear that this order does not come in the way of respondents in taking disciplinary action, if so warranted, and if the same is permissible in accordance with the rules governing the service and the Andhra Pradesh Revised Pension Rules, 1980. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

08th March, 2017
Rds

P.NAVEEN RAO,J