

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.1078 of 2017

in

W.P.No.36195 of 2016

and

WRIT PETITION No.36195 of 2016

ORDER:

Heard the learned counsel for petitioner and learned Government Pleader for Services appearing for respondents.

2. The petitioner was employed as Armed Reserve Sub-Inspector in the Police Department of the Telangana State. According to his service register, he was supposed to retire on 28-02-2013, but by mistake he was allowed to continue in service beyond 28-02-2013 and made to retire on 31-08-2014. During this period from 28-02-2013 to 31-08-2014, he was paid the following amounts:

“1. Pay from 03/2013 to 08/2014	Rs.9,04,0617/-
2. Addl. Surrender leave 2012-2013	Rs. 20,523/-
3. Regular Surrender Leave-2013	Rs. 22,113/-
4. Addl. Surrender leave-1/2014	Rs. 22,113/-
5. Addl. Surrender leave-2/2014	Rs. 23,759/-
6. T.A. from 03/2013 to 05/2014	Rs. 23,500/-

Total	Rs.10,16,625-00
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3. Later this mistake was realized and impugned proceedings dt.08-01-2015 were issued seeking recovery of this amount on the ground that he ought to have retired on 28-02-2013 and he could not have been allowed to continue till 31-08-2014.

4. Assailing the same, the petitioner filed this Writ Petition contending that having been permitted to work till 31-08-2014, the said amount representing his pay etc., for the period up to that date could not have been recovered.

5. On 26-10-2016, this Court held that *prima facie* the contentions of petitioner appear to be correct and that without any notice this action has been initiated by the respondents. It granted interim suspension.

6. W.V.M.P.No.1078 of 2017 is filed to vacate the said order by respondents. Therein, respondents took a plea that the petitioner submitted an application on 17-01-2015 permitting to recover over drawn pay and allowances from his pensionary benefits.

7. However, learned counsel for petitioner contends that when no pension was paid after he retired on 31-08-2014 and when respondents insisted that unless he gives such an application, his pension would not be released at all, he gave such application on 17-01-2015. Thus according to the leaned counsel for petitioner, the petitioner was coerced to agree to the recovery of the excess payment referred to in the proceedings dt.08-01-2015.

8. Having regard to the fact that petitioner was allowed to work till 31-08-2014 by respondents, they are estopped from

compelling the petitioner to repay the amounts mentioned in the impugned proceedings which are referable to the said period of service. Therefore, the impugned order cannot be allowed to stand. It is accordingly set aside.

9. W.V.M.P.No.1078 of 2017 is dismissed.

10. The Writ Petition is allowed to the above extent. No costs.

11. However, this will not preclude the respondents from seeking recovery of any pension paid for the period 28-02-2013 to 31-08-2014 to the petitioner. If any amount is already deducted from the pension being paid to petitioner towards recovery of amount mentioned in the impugned order, the same shall be adjusted to the amount of pension, if any, for the period February, 28-02-2013 to 31-08-2014. Otherwise it shall be refunded. This exercise shall be done within two (02) weeks from the date of receipt of a copy of this order.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 14-06-2017

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