HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.19965 OF 2007

ORDER:

The case of the petitioners is that they all worked as Assistant Treasury Officers, Treasury Officers and in other positions and retired from service. After retirement they have submitted pension papers for grant of pension and other benefits for which they are entitled as per rules. But, the authorities have not processed the pension cases of the petitioners on the allegation that the petitioners colluded with the criminal gang of Bihar and West Bengal States, who have fraudulently drawn the Military Pensions to a tune of Rs.37 lakhs in eight districts of A.P.State, by producing false pension payment orders, as if they were issued by the Controller of Defence Accounts (Pensions) at Allahabad. In this regard several officers of Treasury Department have been implicated in the criminal cases. Further, one of the accused by name Parasunath Singh of Bihar State was arrested by the police. During the investigation of the police the said accused categorically disclosed that their gang has drawn the amounts from the Treasuries of eight districts in Andhra Pradesh State as well as in other states in the country. But, during the investigation he has not disclosed that the treasury officials or employees, cooperated or colluded with them in drawing the military pension. Meanwhile, the Government transferred the case to the CID apart from ordering the departmental enquiry.

In the common departmental enquiry, the Enquiry Officer has held that there was failure on the part of employees in checking the genuineness of Military Pension Orders as per the guidelines issued by the Military authorities and in following the prescribed procedure for release of such pension, as such, recommended for punishment depending upon the gravity of charge against each individual. However, the Enquiry Officer has also held that the charges leveled against some of the officers and others are not proved. After entrusting the cases to the CID, by the Government of A.P., the CID officials only concentrated on the treasury officials by leaving the remaining accused of the criminal gang. Moreover, the CID authorities are side tracking the case leaving the main accused by implicating the treasury employees in the case presuming that they colluded with the accused persons. Thus, the CID officials have failed in their investigation in arresting the main accused. It is also stated that the A.P.Treasuries & Accounts Gazetted Service Association, Hyderabad made a representation on 30.03.2002 bringing all the aforesaid facts to the notice of the 2nd respondent. Further, the 4th respondent has also addressed a letter to the 2nd respondent vide letter dated 03.04.2002 pointing out that there is no scope to suspect any probable collusion between those criminals and the treasury personnel. It is further stated that in the case of one similarly placed person who was charge sheeted for his failure to adhere the procedure prescribed for payment of Military Pension has been exonerated from further action by the 1st respondent, but, the case of the petitioners has not been considered on similar lines which shows that the respondents have treated the petitioners with discrimination. It is also stated that the CID authorities have arrested the petitioners and kept them in remand upto 45 days and the case was transferred to ACB Court by extending the allegations against the petitioners. The ACB Court issued NBWs against the prime accused, but, the police unable to arrest the main accused gang who are actually involved in the crime. The trial is pending for want of arrest of the main accused since long time, due to which the pensionary benefits of the petitioners were upheld, thereby the petitioners are put to irreparable loss. Aggrieved by the action of the respondents in not arresting the main accused gang who are involved in the crime of getting Military Pension illegally, present writ petition is filed.

The 6th respondent filed counter on 29.11.2007 stating that A6 to A12 are treasury officials involved in the case since they have not followed the procedure; that if the treasury officials have taken interest in granting the pension, the fraudulent payment of military pension could have been avoided; that in the confessional statement of A1, he clearly stated that they have paid money in thousands to the treasury officials to get the pension released; and that the Enquiry Officer has given a finding against the Treasury Officials that A6 to A12 have not followed the procedure in granting of pension and held that they are responsible for illegal payment to A1 to

A5 and as a result the Government sustained a loss of Rs.4,70,062/-. It is denied that the CID officials are concentrating on Treasury officials by leaving the remaining accused of the criminal gang. It is further stated that except A2 to A5, all other accused have been arrested and also denied that the CID authorities are side tracking the case. It is stated that in the Departmental Enquiry which was conducted by G.Veeranna, Regional Joint Director, Treasuries and Accounts, Region III, Hyderabad, it is revealed that the accused A6 to A12 have not exercised their powers in checking the fake pension payment orders; and that investigation is completed and charge sheet is filed against the accused A1 to A12 in the Court of Addl.Special Judge for ACB Cases-cum-5th Additional Chief Judge, City Civil Court, Hyderabad. It is stated that Accused A6 to A12 have taken anticipatory bail from this Court and there is no scope to the CID officials to keep them in remand for 45 days. It is further stated that the CID officials have taken all care and precautions and made all efforts to arrest A2 to A5, but they were not available in the addresses given by A1 in Bihar State and that on 04.06.2007 when one Govardhanachari, Sub Inspector of Police, CID went to Bihar to serve the summons against A2 to A5, they were not available there. It is stated that on 22.11.2007, A1, who is the main accused in the case was produced in the Court; and that on 07.07.2007 a memo was filed by concerned P.P to split the case against A2 to A5.

The 6th respondent filed another counter affidavit in March, 2008 reiterating the contents of the earlier counter affidavit.

The 5th respondent filed additional counter on June, 2016 stating that one M.Viswanadham, District Treasury Officer, Mahabubnagar District, had lodged a complaint on 17.08.2001 with the Crime Investigation Department, with regard to cheating, forgery committed by five accused persons in regard to defence pensions stating that the accused fabricated pension payments orders, purported to have been issued by CDA (P), Allahabad by forging the signatures and seals of CDA (P), Allahabad and approached District Treasury Officer and Sub Treasury Officers of Mahabubnagar, posing themselves as Ex-servicemen and managed both the district treasury officers and office staff of Sub Treasury Officer and drawn the amount to a tune of Rs.4,70,062/-. Basing on the said complaint a case in Cr.No.35/2001, under Section 368, 409, 420, 468, 471, 477 (A), 420-B, read with Section 109 IPC and Section 13(1) (d) (ii), 19 of Prevention and Corruption Act, 1989, is filed on the file of Crime Investigation Department, Police Station, Hyderabad against the petitioners 1, 4 to 10, as A8, A6, A11, A9, A13, A10 and A7 including A1/Parasinnath Sing @ Ashok Singh @ Ramsingh @ Rajkumar Singh-fake Military Officer (convicted in C.C.No.2/2007) A-2/Thapan Kumar Chaterji @ Ganga Ram @ Ramdas-fake Military Officer, A-3-fake Military Officer-Shambhunath Pande @ Sohan Lal @ Dharmanath @ Ram Singh

@ Ganesh Pandey, A4-fake Military Officer/Jainadh @ Ram Kumar @ Bindo Singh @ Sohan Das and A5-fake Military Officer/Kamala Nath Mehentho @ Kaushal Singh @ D.K.Singh (Gang Leader). It is also submitted that A1 convicted in CC.No.2/2007; and that with regard to A2 to A5 NBWs are pending vide CC.No.24/2009 and after split up, the I ACB Court, Hyderabad issued proceedings under Section 82 and 83 of Cr.P.C. It is also submitted that on 16.10.2015 the investigating officer submitted a report to the I ACB Court, Hyderabad stating that A2 to A5 have given wrong address. It is also stated that A6 to A12 are the Treasury officials who drawn the amount illegally from the Government funds and given to the fake Military Officials and the case is pending trial vide CC.No.2/2007 before the I ACB Court, Hyderabad; and that during the course of trial A6 and A10 died. It is further stated that from 03.06.2015, the trial was started and total witnesses are 30 in numbers in which 24 witnesses already examined and the case is posted to 21.06.2016 for examination of investigating officers. It is stated that as per the instructions of this Court, police parties visited the given addresses of accused persons many times, but not traced out the said addressed, and on 10.11.2009, proclamation orders under Section 82 Cr.P.C against A2 to A5 and attachment of properties of accused under Section 83 Cr.P.C. were issued. It is stated that except A4, all the addresses i.e. A2, A3 and A5 are false as shown in their document which they submitted while applying the pension.

Moreover, A4 is absconding from the village and he has got no properties and report dated 11.03.2010 was submitted to the Court by the CID. This respondent also contacted the SHO, Muzamathpur, Bihar, to know the whereabouts of the accused, but in vain. The CID police have been putting sincere efforts to trace out the accused.

The 5th respondent filed counter on 30.01.2017 reiterating the submissions made in the earlier counter.

The 5th respondent filed one more additional counter on 16.06.2017 stating that in pursuance to the proceedings issued by the Hon'ble Judge, I Additional Chief Judge-cum-Prl.Spl.Judge for SPE & ACB Cases Court, Hyderabad under Section 82 and 83 Cr.P.C. against A2, A3, A4 and A5, the police visited Bihar State on 09.12.2009, traced the address of A4 and pasted the proceedings before the Panchayatdars and also made efforts to execute the 82 & 83 Cr.P.C. proceedings against the remaining A2, A3 and A5, but in vain, as the addresses were fake and PPOs furnished by them were fake and that A4 is not having any properties. Thereafter, the said information was submitted before the I Additional Chief Judge-cum-Spl.Judge of SPE&ACB by the then I.O., K.Krishnam Raju, DSP on 11.03.2010 vide C.No.407/2010. Subsequently, Sri Ch.Ajay, Inspector of Police also filed a Memo before the Additional CJM-cum-Prl.Special Judge for SPE & ACB cases Court at Hyderabad on 16.10.2015. Thereafter the Court below sent

NBWs, 82 and 83 proceedings to the Pathara District Magistrate, Bihar for execution against accused Nos.2,3,4 and 5 and compliance, and the report is awaited. The I Additional CJM-cum-Prl.Special Judge for SPE & ACB Cases Court pronounced Judgment on 30.05.2017 and accused Nos.7, 9, 11 and 12 were convicted under Sections 409, 120(B), 13(1) (C) (D) IPC and that the guilt was proved under Section 248(2) Cr.P.C., hence simple imprisonment for one year was imposed. The Accused Nos.7, 9, 11 and 12 paid Rs.8,000/- and Accused No.8 was acquitted under Section 248 (1) Cr.P.C. as Sections 467, 471, 477 (A). With regard to Accused Nos.6 and 10, it is submitted that the said accused died.

When the matter was listed on 12.06.2017, learned Assistant Government Pleader for Home produced a copy of the Judgment dated 30.05.2017, stating that out of 12 accused, A1 was convicted vide Judgment dated 30.05.2017 in CC.No.2 of 2007 by the I Additional Special Judge for SPE & ACB cases-cum-V Additional Chief Judge, City Civil Courts, Hyderabad and Accused Nos.2 to 5 are absconding and NBWs are pending against them and accused Nos.6 and 10 died. He also submitted that A7, A9, A11 and A12 were convicted and A8 not found guilty. It is also stated that A8 is the petitioner No.1, A6 is petitioner No.4, A11 is petitioner No.5, A9 is petitioner No.6 and A12 is petitioner No.7 in the writ petition; and that A10 was acquitted and sought time to get instructions as to what are the further steps taken against A2 to A5.

When the matter is listed on 19.06.2017, learned counsel for the petitioners took time and filed a memo stating that documents filed by the learned Assistant Government Pleader for Home were not served on the petitioners.

When the matter is listed today under the caption 'for judgment', there is no appearance for the petitioners.

It is to be seen that except filing copy of the Judgment in CC.No.2 of 2007, in which petitioners were also accused, learned Assistant Government Pleader has not filed any other documents. As such, it is clear that petitioners are well aware of the Judgment in C.C.No.2/2007, and hence, the objection raised by the petitioners has no legs to stand. Moreover, the grievance in the writ petition is that the respondents-CID police are not arresting the main accused gang. Counters filed by respondents 5 and 6 goes to show that the CID authorities have taken all the steps for arresting the main accused. In fact, Accused No.1 was arrested and convicted and some of the petitioners were also accused and they were also convicted. In the counter it is specifically stated that NBWs were pending against A2 to A5 and proceedings under Section 82 and 83 were also issued, which goes to show that CID police have taken all the steps for arresting A2 to A5. In view of the above, it cannot be said that the CID police have not taken any steps for arresting the main gang. Recording the same, the writ petition is disposed of. However, the CID police shall take all the steps for affecting arrest of other accused.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

29.06.2017
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