

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) No.182 OF 2017

DATED : 19.07.2017

Between :

Nimma Seetha Ram Reddy, S/o.Sri N. Raji Reddy,
Aged 70 yrs, Occu : Retired Special Deputy Collector,
R/o.H.No.6-3-602/4, Hill Top Colony,
Khairatabad, Hyderabad – 500 004

.. Petitioner/Applicant

And

The Government of Andhra Pradesh,
Revenue (Ser III) Department,
Secretariat, Hyderabad,
Rep., by its Principal Secretary to Government & others.

.. Respondents



This court made the following :

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WRIT PETITION (TR) No.182 OF 2017

ORDER :

Heard.

2. Petitioner instituted O.A.No.117 of 2013 on the file of Andhra Pradesh Administrative Tribunal, challenging the memo of the Government dated 08.10.2012 and consequent memo of Chief Commissioner of Land Administration (for short 'CCLA'), Hyderabad, dated 05.12.2012 and sought consequential declaration that he is entitled for arrears of pay including re-fixation of pension consequent upon fixation of pay in selection grade scales. The said O.A., is transferred to this Court.

3. Petitioner joined service on 29.08.1960 in temporary capacity as Lower Division Clerk. Later his services were regularized. He earned promotions as Upper Division Clerk, Head clerk, Deputy Tahsildar, Tahsildar and as Deputy Collector. He retired from service on attaining the age of superannuation on 31.07.2000, while working as Deputy Collector.

4. Shorn of details claim of the petitioner is, in accordance with scheme formulated by the Government in G.O.Ms.No.190 Finance and Planning (Finance Wing-Courts) Department, dated 10.06.1983, he is entitled to selection grade in the lower category on par with his juniors and therefore, selection grade should be granted to him in the Lower Division Clerk cadre on par with his juniors. Though selection grade scale was granted to him and pay fixation was made, arrears of amount of pay fixation were not released and the benefits of pay fixation were not further extended.

5. Vide order of the Government in G.O.Ms.No.173, dated 13.06.1969 selection grade scales were introduced upto and including Andhra Pradesh Revised Scales of Pay, 1969. The principles for creation of selection grade post and fixation of pay on appointment to selection grade post were notified in the said G.O., and G.O.Ms.No.1080 dated 29.12.1969. In terms thereof, a person appointed to the selection grade post shall draw minimum of the scales, provided that if a senior in the higher promotion cadre is drawing less than such minimum scale then his pay would be limited to the pay drawn by the senior in the higher post. The scheme also restricts appointment to the selection grade to persons who were actually working in the cadre in which they were being considered for appointment to such selection grade. Thus, the scheme excluded such of those employees who were on promotion to higher post with lien on the lower post, for appointment to selection grade in the lower category. A further restriction imposed in the scheme limiting the pay to that of his senior was also challenged before this Court. Rule 5 (2) of the Andhra Pradesh Revised Scales of Pay Rules, 1969 was struck down by this Court. Consequently, the Rule itself was deleted. With the removal of the said restriction, persons appointed to the selection grade posts became eligible to draw the minimum of the selection grade scale, which in given circumstances, be granted at a minimum of the higher promotional post.

6. As a consequent to these developments, Government issued order in G.O.Ms.No.190 dated 10.06.1983 according sanction to appoint in the selection grade in the lower cadre, all such of the seniors who are promoted to the next higher post in the regular

line from the date on which the juniors were appointed to selection grade in the lower cadre and for regulation of their pay, based on such appointment. Consequent to G.O.Ms.No.190, orders were passed on 24.08.1984 by the Collector, Ranga Reddy District, granting pay fixation benefit in the selection grade to the petitioner as well as 23 others. The petitioner's pay was fixed at Rs.192/- notionally in the scale of Rs.192-7-213 with effect from 08.01.1971 and further orders were passed by the Special Officer and Competent Authority under Urban Land Ceiling, Hyderabad dated 07.11.1984 fixing pay of the petitioner notionally from 08.01.1971 and worked out the pay for the subsequent years. He was also permitted to draw the arrears from 08.01.1971. In terms of these orders, petitioner was entitled to receive arrears.

7. According to learned counsel for the petitioner the benefits of such pay fixation was extended to all other persons whose names are included in the proceedings of the District collector dated 24.08.1984, but for the reasons best known, the arrears of amount due were not paid to the petitioner. Petitioner started his long struggle to get the arrears of amount consequent to pay fixation granted to him in the year 1984 and is in the 33rd year of his fight for the benefits flowing out of the decision of the competent authority taken in the year 1984. At this stage, it is appropriate to note that the proceedings granting selection grade scale of Rs.192/- with effect from 08.01.1971 and consequent pay fixation was not reviewed/revised and are still in force.

8. No counter affidavit is filed. However, written instructions are furnished to Government pleader. A copy of the letter addressed by the CCLA to the Special Chief Secretary to

Government (Revenue Services II Department), Government of Telangana dated 05.07.2017 is placed before this Court by learned Government pleader. Even according to this letter, petitioner is entitled to claim made in the writ petition and this letter also does not hold that pay fixation benefits granted to petitioner in the year 1984 was subsequently cancelled. The only reason assigned is that the claim is hit by cut off date dated 11.11.1982.

9. The correspondence placed on record would disclose that the District Collector as well as CCLA, supported the claim of the petitioner for grant of the selection grade scale of Rs.192/- with effect from 08.01.1971.

10. It appears, the claim for grant of selection grade in terms of G.O.Ms.No.190 was made by the concerned employees after the orders were issued. In the meantime, there were subsequent pay revisions. In order to avoid the continuous demand of such revision, Government imposed ban on entertaining such claims after 11.11.1992 and orders to this extent were issued in G.O.Ms.No.191 dated 11.11.1992.

11. Even though there are some employees entitled for grant of selection grade, the benefit was not extended and employees went on making representations. Government issued orders in G.O.Ms.No.4 Finance & Planning (FIN.WING P.C) Department dated 06.01.1986 giving further opportunity to all the employees to make a request for grant of pay fixation. Though petitioner was already granted pay fixation, he made representation on 31.03.1986 to consider his claim. This has also not resulted in any favourable decision to release the amounts in favour of the petitioner.

12. The claim of the petitioner was rejected by order of the Government dated 08.10.2012, impugned in this writ petition on the ground that the claim is belated and is barred by the restriction imposed by the Government in G.O.Ms.No.191, and therefore, petitioner is not entitled to the benefit of pay fixation sought by him as he did not avail the opportunity when it was afforded to him.

13. Before appreciating this stand of the Government, it is also necessary to note that on 08.12.2004 the CCLA addressed letter to the District Collector Ranga Reddy District, calling for his response with reference to the claim of the petitioner for grant of selection grade scale and as to whether his juniors were drawing higher pay benefits.

14. The District collector responded to the said letter, vide his letter dated 18.01.2005 holding that on verification of the service particulars, a person by name G. Srinivas Rao who was granted selection grade was junior to the petitioner in the Lower division cadre, upper division cadre and Deputy Tahsildar. The District Collector also informed that the bill for settlement of arrears of amount after fixing the pay in the selection grade post was returned by the PAO, with an objection that the claim is not valid in view of the orders of the Government in G.O.Ms.No.191 dated 11.11.1992. The District Collector informed the CCLA that all the juniors of the applicant were benefited and enjoyed the selection grade appointment. The report submitted by the CCLA to Government on 18.03.2009 also broadly supports the claim of the petitioner for grant of selection grade arrears.

15. In the above background the reason assigned by the Government in rejecting the claim is required to be examined. The rejection is on the ground that vide G.O.Ms.No.4 dated 06.01.1986 though opportunity was afforded to the petitioner to apply for re-fixation of pay by removing anomaly if any, and for sanction of selection grade scale, he did not avail the benefit and vide G.O.Ms.No.191 dated 11.11.1992 government imposed ban of entertaining any such claims.

16. It is intriguing to note that Government and all other authorities are silent on the fact that as early as on 24.08.1984 pay revision was affected and petitioner was granted selection grade scale with effect from 08.01.1971 and his pay was fixed at Rs.192/- in the scale of Rs.192-7-213. Consequently, pay revision was also made and his pay payable from year after year was worked out by the orders of the competent authority issued on 07.11.1984. Thus, what was required after 07.11.1984 was to release the amount in terms thereof. Thus, it is not a case where the claim for grant of selection grade was not made earlier to issuance of G.O.Ms.No.4 nor failed to avail the opportunity provided by G.O.Ms.No.4 within the time granted therein. Infact petitioner did make a representation immediately after G.O.Ms.No.4 was issued and within the time prescribed. Except for stating that Pay and Accounts Officer has returned the bill submitted by referring to G.O.Ms.No.191 dated 11.11.1992, no reasons are assigned as to why the pay fixation was not granted.

17. Subsequent correspondence of CCLA and the District Collector, Ranga Reddy District, would disclose that petitioner is entitled to selection grade post from the date when it was originally

granted and that his juniors were granted selection grade and enjoyed the benefits all along. Therefore, denial of selection grade scales to petitioner, more particularly when it was already sanctioned and pay fixation was made, is erroneous. The correspondence on record and the ultimate decision impugned in this writ petition would disclose total non-application of mind on the part of various authorities in appreciating the stand of the petitioner in sanctioning the arrears consequent to the selection grade granted to him and pay fixation made thereafter. Illegally and without any justification the amounts are not paid to the petitioner and for no valid reason there was continuous and lengthy correspondence between various authorities, ultimately culminating in the impugned decision. The order impugned is liable to be set aside on the sole ground of total non-application of mind and mechanical disposal of the claim made by a person, who rendered long service and retired on attaining the age of superannuation in the year 2000.

18. Since the benefit of pay fixation order dated 07.11.1984 was not extended to the petitioner for all the subsequent years, even though he earned promotions, till the retirement, petitioner continued to draw the pay as originally granted to him prior to the orders of the District Collector dated 24.08.1984. In terms of the annexure appended to CCLA letter dated 18.03.2009 a junior to him was drawing an amount of Rs.13,450/- and as on the date of retirement petitioner was entitled to same pay, if the benefit of pay fixation was correctly extended. Whereas petitioner was drawing last pay of Rs.10,600/-. Thus, by the time of his retirement, the cumulative difference, was approximately Rs.3,000/-. This

difference of the last pay drawn has also impacted his retirement benefits and determination of monthly pension. Thus, the loss caused to the petitioner on account of improper processing of claim and not attending to the grievance of the petitioner is enormous, even though he has been ventilating the same and even though the District Collector and the CCLA were expressing that the claim made by the petitioner was valid and that he is entitled to the benefits of selection grade and all consequential benefits.

19. Having regard to the above findings, the order impugned is liable to be set aside and accordingly, it is set aside.

20. The writ petition is allowed. The respondents are directed to give effect to the orders of District Collector dated 24.08.1984 and pay fixation proceedings issued on 07.11.1984, work out the arrears of amount payable to the petitioner till the date of his retirement, revise retirement benefits and monthly pension and arrears of amount payable shall also be released. The entire exercise shall be completed within a period of two months from the date of receipt of copy of this order. Petitioner is also entitled to interest @ 8% p.a., from the date of due till the final payment of the amount, as directed above. There shall be no order as to costs.

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

19th July, 2017
Rds

P.NAVEEN RAO,J