

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.23889 of 2017

ORDER:

This writ petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the action of respondents 2 and 3 in not sanctioning service pension to the petitioner as highly illegal, arbitrary and against Articles 19 and 21 of the Constitution of India and consequently direct the respondents to pay the monthly service pension to petitioner.

2. Heard Sri P. Kiran, learned counsel for petitioner, learned Government Pleader for Municipal Administration & Urban Development for the 1st respondent and Sri P. Kesava Rao, learned Standing Counsel for respondents 2 & 3 and with their consent, the writ petition is taken up for disposal at the stage of admission. Perused the material available on record.

3. The case of the petitioner is that the petitioner worked as Senior Assistant Tax Section, Circle No.IV, Greater Hyderabad Municipal Corporation, Hyderabad, and retired on 30.06.2016 on attaining the age of superannuation. The 2nd respondent vide office proceedings No.2149/PENSION/FA/GHMC/2016, dated 22.06.2016, sanctioned pensionary benefits to the petitioner and also passed an order to that effect, but so far, the petitioner is not paid the service pension on the ground that a criminal case is pending on the petitioner.

4. The main grievance of the petitioner is that the petitioner made a representation, dated 09.06.2017, to the 2nd respondent, but

so far, the 2nd respondent has not considered the same and the same is pending.

5. Learned counsel for the petitioner submitted that a case has been foisted against the petitioner, but the said case has ended in acquittal vide C.C.No.62 of 2009, on the file of Principal Special Judge for SPE and ACB Cases cum IV Additional Chief Judge, City Civil Court, Hyderabad, and as per the decision of this Court reported in **Chief Commissioner of Land Administration, A.P., Hyderabad and another Vs. R.S. Ramakrishna Rao and another**¹, in a case of mere pendency of appeal does not prevent the employee from getting pension and the innocence of the petitioner has been fortified by the judgment of acquittal of the trial Court and no appeal has been numbered so far against the judgment of the acquittal and requested this Court to pay monthly service pension to the petitioner including arrears.

6. On the other hand, learned Government Pleader for Municipal Administration & Urban Development for the 1st respondent submitted that the said view was not accepted by the another Division Bench and the matter was referred to Full Bench, but as long as the judgment in **Chief Commissioner of Land Administration's Case (Supra 1)**, is in operation, the same has to be followed.

7. Taking into consideration the facts and circumstances of the case and the submissions of both the learned counsel, this Court is of the view that when the petitioner made a representation, the

¹ 2010 (2) ALD 773 (DB)

competent authority ought to have taken a decision as per Rules in force.

8. Having regard to the same, without expressing any opinion on the merits of the matter, the Writ Petition is disposed of directing the 2nd respondent to consider the representation of the petitioner, dated 09.06.2017, pass appropriate orders, as per Rules in force, as expeditiously as possible, preferably within a period of four (4) weeks from today and communicate the decision to the petitioner. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.RAJASHEKER REDDY, J

Date: 16th August, 2017

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