THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.2528 OF 2008

ORDER:

The petitioners are retired Work Inspectors. The first petitioner was appointed in 1962 and he retired from service in 2002 after completion of forty years of service. The second petitioner was appointed in 1962 and he retired from service in 2001. The third petitioner was appointed in 1958 and he retired from service in 1999. The fourth petitioner was appointed in 1963 and he retired from service in 2002. When the petitioners were receiving monthly pension, the first respondent issued G.O.Ms.No.52, dated 30.07.2005 providing for continuing the benefits of sanction of Special Annual Increments beyond maximum scale and Automatic Advancement Scheme to the eligible employees of the Andhra Pradesh Housing Board. The said order was not implemented, but on the representation of the petitioners for repayment of the pensionary amounts, which were recovered while paying the retirement benefits, when no action was taken, they filed W.P.No.8069 of 2007 and the same was disposed of on 22.06.2007 directing the second respondent to consider and dispose of the representation of the petitioners dated 09.03.2007. After disposal of the writ petition as aforesaid, when the petitioners submitted a representation along with a copy of the order and when no final orders were passed, they filed C.C.No.994 of 2007 and a notice was ordered on 05.11.2007. After receiving notices, the impugned order dated 29.09.2007 was passed rejecting the claim of the petitioners. Challenging the same, the present writ petition is filed.

The second respondent filed a counter affidavit stating as follows.

> "The Government of Andhra Pradesh has introduced Automatic Advancement Scheme in service by creation of special grades to employees who have completed ten years of service and special temporary promotion post/special ad-hoc promotion

post for the employees who have completed fifteen years of service with effect from 01.04.1981. In this regard, it is to mention that petitioners Nos.1, 2 and 3 were appointed to the post of Work Inspector on 01.10.1971 and on receipt of the orders, they were appointed to Special Grade promotion and Special Ad-hoc promotion with effect from 01.04.1981, before completion of 10/15 years. It is respectfully submitted that the irregular promotion was pointed out by the Director of State Audit while scrutinizing the pension papers. The Director of State Audit has directed this respondent to revise and re-fix the pay accordingly, duly returning the pension papers. There upon the irregular fixation of pay due to wrong implementation of orders of Automatic Advancement Scheme was rectified and the excess amount to be recovered were assessed and action taken to recover the same from the pensionary benefits. It is humbly submitted that the recovery effected was due to incorrect computation of period required for promotion under Automatic Advancement Scheme and not due to non-implementation of the Government Orders at that time.

It is submitted that in respect of 4th petitioner there were various spells of absence from duty which were regularized as Extraordinary Leave (EOL), the period which will not count for drawal of annual increment. However, in the present case the date of increment was not postponed to the extent of period of EOL regularized. Consequently, while scrutinizing the pension papers, the Director of State Audit pointed out the omission and directed this respondent Housing Board to regularize the pay duly postponing the date of increment taking into consideration the EOL period and also re-fix the pay under Automatic Advancement Scheme. It is submitted that re-fixation discloses an earlier excess payment of Rs.21,187/-, which was recovered from the pensionary benefits is in accordance with law. It is humbly submitted that the recovery effected is not connected to Automatic Advancement Scheme but it was connected to with regard to excess payments made to the petitioners."

The above facts would make it clear that proper calculation was not made by the respondents while effecting special grade promotion/special ad-hoc promotion with effect from 01.04.1981. The mistake committed by the respondents was pointed out by the Director of State Audit and thus, the excess amount was recovered. The impugned order dated 29.09.2007 makes it clear that the excess amount that was recovered was due to irregular fixation of pay, but not due to non-implementation of the instructions issued in G.O.Ms.No.52, dated 30.07.2005. In view of the said clarification and in the absence of any evidence of entitlement of the petitioners for their special grade promotion/special ad-hoc promotion with effect from 01.04.1981, the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. Consequently, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

28.11.2017
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