

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No. 30557 OF 2017

DATED 11TH SEPTEMBER, 2017

Between:

K.Chandrasekhara Rao

... Petitioner

AND

The State of Andhra Pradesh,
Rep. by Special Chief Secretary to Government,
Transport, Roads & Buildings (Vig. Tr(2)) Department,
Government of Andhra Pradesh, A.P. Secretariat Buildings,
Amaravati, Velagapudi,
Guntur District, and others

... Respondents

Counsel for the petitioner

:

Sri M.P.Kashyap

Counsel for the respondents

:

G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

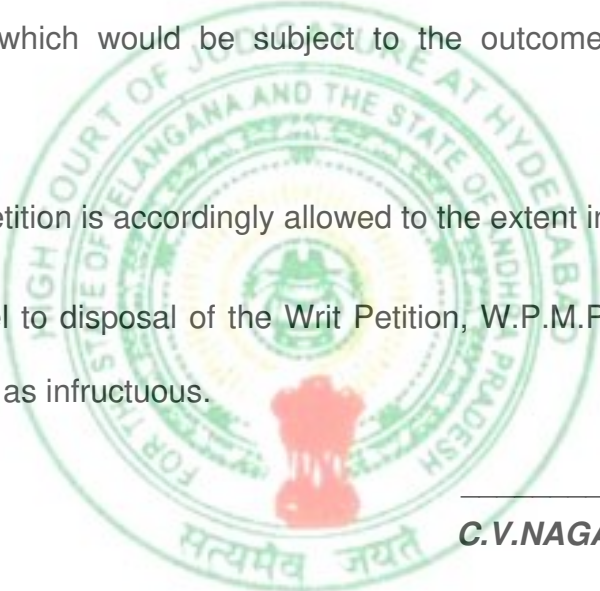
The petitioner approached the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal') with the grievance that though the inquiry into the charge memo issued as far back as the year 2012 was entrusted to Dr. Premchand, I.A.S. (Retd.), Commissioner of Inquiries, General Administration Department, by G.O.Rt.No. 253 dated 28-04-2016 with a specific direction to complete the inquiry and furnish inquiry report within two months, neither the inquiry was completed nor his retirement benefits such as gratuity, commutation of leave and fixation of pension have not been extended to him.

2. The Tribunal, however, has taken a view, which in our opinion is not sustainable in law, that the O.A. with the relief sought by the petitioner is not maintainable. While coming to this conclusion, the Tribunal has not cited any provision of law or judicial precedent that an application for a direction to inquiring authority/inquiry officer to complete inquiry is not maintainable before it. In our opinion, when the disciplinary authority has appointed an inquiry officer in exercise of its power under Rule 20 (2) of the Andhra Pradesh Civil Services (C.C.&A.) Rules, 1991, such inquiry officer is amenable to the jurisdiction of the Tribunal. Therefore, in the given facts and circumstances of the case, if Tribunal feels that non-completion of inquiry by inquiring officer is causing prejudice to a public servant in office or a retired public servant, there is no prohibition in law to direct such inquiring authority to complete the inquiry and submit its report, more so when it was mandated by the order under which it was constituted by the disciplinary authority to complete the inquiry within a stipulated period. In the instant case, the grievance of the petitioner is that on the ground of pendency of disciplinary proceedings, the employer has not been fixing final pension and releasing the retirement benefits.

3. For the aforementioned reasons, the order of the Tribunal is set aside. The Chairman, Commissionerate of Inquiries, General Administration Department, A.P. Secretariat, Amaravathi, who is impleaded as respondent No. 7, is directed to complete the inquiry against the petitioner within three months from the date of receipt of a copy of this order. On receipt of inquiry report, the disciplinary authority among the official respondents is directed to pass a final order within two months thereafter after issuing notice to the petitioner as per law. If the needful is not done within the above stipulated period, the respondents shall release the amounts towards gratuity and leave encashment to the petitioner which would be subject to the outcome of the disciplinary proceedings.

4. The Writ Petition is accordingly allowed to the extent indicated above.

5. As a sequel to disposal of the Writ Petition, W.P.M.P.No. 38079 of 2017 shall stand closed as infructuous.



C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 11-09-2017.

JSK