HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 18729 of 2012

Date : 11-4-2017

Between :

D Vijaya Kumar S/o Late Suryanarayana
AP State Civil Supplies Corporation Ltd
R/o Flat No. 43, Jeevan Jyothi Apartments
Ramnagar, Visakapatnam

Petitioner

And

The A P State Civil Supplies Corporation Limited
Rep by its VC & MD
C S Bhavan, Somajiguda, Hyderabad and others

Respondents

The Court made the following:

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ORAL ORDER:

This writ petition is filed aggrieved by not releasing and paying the retirement benefits due to the petitioner, even after six months of his retirement. Petitioner seeks for settlement of the retirement benefits and also interest for the period of delay in making the payment.

2. On attaining the age of superannuation, petitioner retired from service on 30.11.2011. The order of retirement dated 28.11.2011 clearly indicates that there was no criminal or disciplinary proceedings pending against him. On 10.05.2012 the District Manager of the respondent corporation issued certificate holding that petitioner has completed all the assignments and reconciliation works entrusted to him during his tenure as Assistant Manager (Accounts). The certificate would disclose that the petitioner has already completed the assignments and reconciliation works even before he was retired from service. However, for no justifiable reasons and without communicating any decision to withhold the retirement benefits, the retirement benefits were not paid.

3. Heard learned counsel for petitioner and learned standing counsel for respondent corporation.

4. Learned standing counsel for respondent corporation sought to justify the delayed action, however, there is no new material placed on record to support the stand of the respondent corporation.

5. Once an employee retires from service after having rendered satisfactory service, the employee is entitled to benefits accrued to him for rendering long service with the employer, soon after he retires from service. Any amount of delay in settlement of retirement benefits, for the reasons not

attributable to the employee have to be viewed seriously and this case is not an exception.

6. At the interlocutory stage, entire issue was considered and having noted the stand of the respondents in the counter affidavit, this Court passed interim orders directing release of the retirement benefits within one week, after elaborately considering the rival contentions.

7. In the facts of this case, it is expedient to extract the entire order passed in WPMP No. 24006 of 2012 dated 9.8.2012. The order reads as under:

> "The petitioner retired from service as an Assistant Manager (Accounts) in the A.P.State Civil Supplies Corporation Limited, as long back as on 30.11.2011. The proceeding of the Vice-Chairman & Managing Director of the said Corporation dated 28.11.2011 is placed on record indicating that the petitioner was permitted to retire from service and necessary action was directed to be taken to settle his retirement benefits. The District Manager of the respondent Corporation at Srikakulam issued a certificate dated 10.05.2012 confirming that the petitioner had completed all his assignments and reconciliation works during his tenure as an Assistant Manager (Accounts). The petitioner's retirement benefits were however not released.
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> The General Manager of the respondent-Corporation filed a counter stating that the reconciliation of the financial statements and stocks at Srikakulam where the petitioner had worked as an Assistant Manager (Accounts) was not finished. He sought to attach blame to the petitioner in respect of the physical verification of stocks at the Mandal level stock points. An attempt was also made to attack the petitioner by alleging that he had submitted a false certificate of physical verification to the Head Office stating that the reconciliation had been done. The counter concludes with a statement that the Corporation would finalize and release the retirement benefits of the petitioner in a short time. The delay in finalizing the account of the petitioner and in releasing his retirement benefits was said to have been caused due to the lapses on the part of the petitioner himself. This counter was filed as long back as on 09.07.2012.
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> Yet, today, the learned standing counsel once again seeks time in the matter and states that the Corporation would be in a position to finalize the matter only within four weeks.
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> Given these facts, this Court must take strong exception to the adamant stance adopted by the respondent-Corporation, as reflected in its counter. Having permitted the petitioner to retire unconditionally from service as long back as on 30.11.2011 under the orders of the Vice-Chairman & Managing Director of the Corporation, who also directed necessary action to be taken for releasing his retirement benefits, it is obvious that the Corporation is now grasping at straws to account for the delay on its part in releasing the same.
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> Despite a certificate having been given by the authority concerned that the petitioner had completed all his reconciliation works during his tenure, the counter strikes a different note and seeks to attach blame upon the petitioner. Whether this can be done after allowing the petitioner to retire unconditionally from service is an aspect that would need further examination. As matters stand, the action of the respondent-Corporation in denying retirement benefits to the petitioner cannot be countenanced.
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> There shall accordingly be a direction to the respondents to release the retirement benefits due to the petitioner within one week from the date of receipt of a copy of this order.
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> Post this WPMP after four weeks, i.e., on 07.09.2012 for addressing the issue of the interest due and payable to the petitioner on the delayed payment of retirement benefits."

8. As noted by this Court at the interlocutory stage, once certificate was issued by the competent authority, it is no more open to the respondent corporation to deny the retirement benefits. No other material is brought on record to support the stand of the respondents in withholding the retirement benefits on some valid reason or justification and such withholding is permissible to them. In the absence of any new material placed on record, the earlier view expressed by this Court, though at interlocutory stage, commands acceptance.

9. Having regard to the earlier orders of this Court in WPMP No. 24006 of 2012 dated 9.8.2012; the fact that petitioner was retired from service on 30.11.2011 and that the certificate issued by the District Manager discloses that the petitioner has reconciled the works entrusted to him and assignments, I see no justification in delaying the retirement benefits payable to the petitioner. Such action of the respondent corporation amounts to arbitrary exercise of power and authority. The Court is now informed that consequent to the interim orders of this Court, the retirement benefits are paid on 29.8.2012. Therefore, the only issue remains is whether interest shall be paid.

10. A retired employee is entitled to settlement of his retirement benefits by the time he retires from service. If there is any delay in settlement of retirement benefits not attributable to the employee, the employee is entitled to interest for the delayed payment. As long as an employee is in service, he is assured of monthly remuneration and other benefits. Once he retires, he shall have to depend only on the benefits to which he is entitled to. More so, at the time of leaving service and retirement, employee will normally have commitments to honour. Thus, any delay in settlement of the retirement benefits would cause grave hardship and suffering. When delay in payment of retirement benefits is not justified and is not attributable to the employee, employee is entitled to claim interest.

11. What interest can be awarded depends on facts and circumstances of the given case. In the instant case, guided by the orders of the Supreme

Court in D.D.TEWARI (D) Vs. UTTAR HARYANA BIJLI VITRAN NIGAM LTD[1], I am on the considered opinion that awarding of interest @ 9 % per annum for the delayed period of payment of retirement benefits would meet the ends of justice.

12. Writ petition is accordingly disposed of directing the respondent corporation to pay interest @ 9 % per annum for the delayed period of payment of retirement benefits. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:11.4.2017
TVK

1 AIR 2014 SC 2861

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