

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

TUESDAY THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 3646 OF 2004

Between:

R. Bhoja Raju ... Petitioner

V/s.

The State of Andhra Pradesh
Represented by its Secretary,
[Municipal Admn. & Urban Development]
Secretariat Buildings, Hyderabad & Ors. Respondents



Counsel for the Petitioner : Sri P. Raghavender Reddy

Counsel for the Respondents : GP for MPL.Admn.
GP for Services-I
Sri D. Srinivas
Sri N.Venkateswara Rao

The court made the following: : [order follows]

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 3646 OF 2004

ORDER : (Oral, *Per the Hon'ble Sri Justice Suresh Kumar Kait*)

This writ petition is filed by the petitioner invoking the inherent jurisdiction of this Court under Article 226 of the Constitution of India, seeking writ of mandamus to declare the orders dated 26/8/2003 passed by the A.P.Administrative Tribunal, Hyderabad, in O.A.No. 1419 of 2003, so far not granting any relief for the interest on the delayed payments of retirement benefits as illegal, arbitrary and to further direct the respondents to pay interest @ 12% p.a. on the delayed payment of retiral benefits and to pass such other suitable orders as this Court may deem fit and proper in the circumstances of the case.

2. Heard the learned counsel for the parties.

3. Vide the present writ petition, the petitioner has challenged the order dated 26/8/2003 passed the learned Tribunal in O.A.No.1419 of 2003, whereby while allowing the O.A., the respondents were directed to pay retiral benefits due to the petitioner within a period of one month from the date of receipt of copy of the order.

4. Learned counsel appearing on behalf of the petitioner submits that the relief sought before the learned Tribunal in the application under section 19 of the Administrative Tribunals Act, 1985 was to declare the action of the respondents in not releasing the pensionary benefit of Rs.79,001-00 towards difference of pension, an amount of Rs.16,760/- towards encashment of earned leave salary, as illegal, arbitrary and consequently to direct the respondents to release all the pensionary benefits due to the petitioner as shown above forthwith along with admissible interest in terms of G.O.Ms.No. 135, MA dated 16/3/1996.

5. We note that in the aforesaid G.O.Ms.No. 135, MA, dated 16/3/1996, the interest part is not mentioned, however, it is an admitted fact as recorded in para No.3 of the impugned order, in the counter-affidavit filed by the respondents that the petitioner is entitled to Rs.28,300/- towards gratuity, Rs.79,000/- towards difference of pension and Rs.16,760/- towards encashment of earned leave. It is further admitted that the delay in paying the amounts due to the petitioner is due to delay in fixation of his pensionary benefits as per the revised

pension rules. An amount of Rs.1,55,767/- was paid to the petitioner [monthly pension] as anticipatory pension during the period from 5/1990 to 12/2000. The respondents sent a cheque No. 956241, dated 30/5/2001 for Rs.28,300/- to the petitioner towards gratuity but the petitioner refused to receive the same.

6. It is not in dispute that the petitioner retired on 30/04/1990 and a cheque bearing No. 956241 for an amount of Rs.28,300/- towards gratuity was sent on 30/05/2001, i.e., after eleven years of his retirement.

7. The petitioner was appointed on 30/07/1951 as clerical attender, subsequently he was promoted as Junior Assistant and retired from service on 30/04/1990 on attaining the age of superannuation.

8. As admitted by the respondents before the learned Tribunal that there is delay in fixation of the petitioner's pensionary benefits as per the revised pension rules. However, we note, interest has not been awarded by the learned Tribunal.

9. A similar issue came up before the Hon'ble Supreme Court in **Dr. UMA AGARWAL V/s. STATE OF U.P. & Anr ¹.**, wherein the Hon'ble Supreme Court awarded Rupees One Lakh compensation in favour of the retired person.

10. In view of the facts recorded above and in the interest of justice, we hereby direct the respondents to quantify the interest @ 9% per annum from the date of his entitlement till the date of delayed payment.

11. The above exercise shall be carried out within four weeks from the date of receipt of a copy of this order.

12. With the above direction, the writ petition is disposed of. There shall be no order as to costs.

13. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

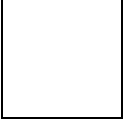
JUSTICE SURESH KUMAR KAIT

Dr. JUSTICE SHAMEEM AKTHER

18-07-2017
I s L

¹) 1993 [3] Supreme 138

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER**



WRIT PETITION No. 3646 OF 2004

*(Order of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)*



Date. 18-07-2017
Court Master: I s L
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