

HON'BLE SRI JUSTICE SANJAY KUMAR

AND

HON'BLE SMT JUSTICE ANIS

WRIT PETITION No.30443 of 2016

ORDER: (*per Hon'ble Sri Justice Sanjay Kumar*)

The State of Andhra Pradesh and its Engineer-in-Chief in the Roads and Buildings Department filed this Writ Petition aggrieved by the order dated 23.02.2016 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.4864 of 2014. The said O.A. was filed by the first respondent herein assailing the Memo dated 24.7.2014, whereby his request for release of the amount due towards encashment of his earned leave was rejected. A consequential direction was also sought by him to the authorities to release the balance of the amount due towards encashment of his earned leave. By the order under challenge, the Tribunal disposed of the said O.A. setting aside the impugned Memo dated 24.7.2014 and directed the authorities to release the amount due towards encashment of earned leave to the first respondent.

Heard the learned Government Pleader for Services (Andhra Pradesh) appearing for the petitioners and Sri P.Gangaiah Naidu, learned senior counsel appearing for

Sri K.Ramalingeshwar Rao, learned counsel for the first respondent.

Sri P.Gangaiah Naidu, learned senior counsel, pointed out that in terms of G.O.Rt.No.1097, Finance and Planning (FW-Pen.I), Department, dated 22.6.2000, the whole or part of the cash equivalent to the earned leave may be withheld only if there is a possibility of some money becoming recoverable from the employee on conclusion of the disciplinary proceedings. Learned senior counsel would contend that the impugned Memo dated 24.7.2014 itself discloses that this possibility did not arise in the present case.

Perusal of the impugned Memo bears out this contention of the learned senior counsel. Therein, the Engineer-in-Chief, Roads and Buildings, State of Andhra Pradesh, stated that as the present case was an A.C.B. trap case, there is no financial involvement in terms of G.O.Rt.No.1097 dated 22.6.2000.

This being the position, the question of withholding the amount due to the first respondent towards encashment of his earned leave does not arise. That apart, the material placed before us by the learned senior counsel demonstrates that others who were facing disciplinary proceedings but sought payment of the amounts due towards encashment of their earned leave were duly paid such amounts. The cases of G.Prakash Babu,

Sub-Inspector-782 of PCR, Kakinada, T.Veerabhadra Rao, Tahsildar, Devipatnam and G.Chakra Rao, Mandal Revenue Officer, Pitapuram are the instances cited in this regard.

In the light of the aforestated facts, this Court finds no basis for the Government to withhold the amount due to the first respondent towards encashment of his earned leave. It is also relevant to note that G.O.Rt.No.789, Transport, Roads and Buildings (VIG-I) Department, dated 19.8.2013, issued by the Government of Andhra Pradesh permitted the first respondent to retire from service without prejudice to the outcome of the disciplinary proceedings and sanctioned withholding of the pension and death-cum-retirement gratuity. The Government therefore took adequate measures at the time the first respondent was permitted to retire from service.

The Writ Petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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JUSTICE SANJAY KUMAR

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JUSTICE ANIS

*14<sup>th</sup> February, 2017*

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