

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.20173 OF 2007

ORDER:

Heard Mr.Muralidar Reddy, holding for Mr.B.Ravinder Reddy, counsel for petitioner, the Assistant Government Pleader for Cooperation for 1st respondent and Mr.M.V.Pratap Reddy for 2nd respondent.

The writ prayer reads as follows:

“...this Hon'ble Court may be pleased to issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the respondents in not considering the petitioner's case for payment of retirement benefits amounting to Rs.3,67,453/- towards Gratuity amount of Rs.1,69,650/-, 300 days Earned Leave salary amount of Rs.1,22,650/-, Annual Grade Increment salary for the period from Feb.2001 to May, 2007 amounting to Rs.17,995/ and additional charge allowance for 6 months amounting to Rs.7,986/- and Revised pay scales arrears amount of Rs.49,172/- from April, 2005 to May, 2007 that is, in all a total sum of Rs.3,67,453/- and to pass....”

By reading the writ prayer, it can be appreciated that the petitioner is aggrieved by the inaction of 2nd respondent in taking a decision or passing resolution on the retirement benefits to which the petitioner is entitled upon his retirement from service on reaching the age of superannuation w.e.f., 30.06.2007.

The counsel appearing for the contesting parties tried to convince this Court on the merits of case pleaded by the respective parties. I have perused the material on record and also taken note of the submissions of both the parties. Having regard to the prayer

and also the order this Court is proposing to pass, these contentions are not adverted to.

The 2nd respondent does not dispute that the petitioner is entitled to retirement benefits. The dispute is on the quantum of amount to which the petitioner is entitled. The complaint is that the Society should take a decision, pass resolution, pay amount as decided by the Society and if the petitioner does not receive the retirement benefits, then the petitioner can be found fault with. According to petitioner, there is no resolution or decision in this behalf. The determination of retirement benefits is governed by Government Circulars/Proceedings etc., and cannot be matter of individual's discretion in the Society.

Mr. Pratap Reddy firstly contends that the 2nd respondent, in fact, sent a sum of Rs. one lakh to petitioner towards retirement benefits, but the petitioner declined to receive and, therefore, the prayer of inaction in the writ petition is misconceived. The 2nd respondent can be successful in convincing this Court on the conduct of petitioner if the 2nd respondent satisfactorily demonstrates that a decision on the payment of retirement benefits as per the Government Circulars/Proceedings was taken, communicated and thereafter amount tendered etc., are established by documentary proof. In the case on hand except the mere assertion, the 2nd respondent could not discharge the onus fastened on 2nd respondent in this behalf.

Keeping in view the limited scope of writ prayer and also the time lost by petitioner during the pendency of this writ petition, I am satisfied the writ petition can be disposed of by this order.

- (a) the 2nd respondent is directed to take a decision on petitioner's retirement benefits and communicate along with the amount so determined by the society to petitioner within 12 weeks from today;
- (b) the 2nd respondent keeping in view the abnormal delay in settling the account determines and pays interest on the amount so determined in this behalf; and
- (c) the petitioner, if aggrieved, can receive the amount under protest and work out his remedies in accordance with law.

The writ petition is, accordingly, disposed of. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, stand closed.

S.V.BHATT, J

08th August, 2017

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