

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.46128 of 2016

Date: 20.03.2017

Between:

Sri G.Narayana S/o late Sri B.Seetharam,
Aged about 60 years, Occu : Asst.Engineer (Retired),
R/o H.No.1-1-483, Chaitanyapuri Colony,
Khazipet, Warangal District.

.....Petitioner

and

The Principal Secretary to Government, Irrigation
and CAD Department, State of Telangana,
Secretariat Buildings, Hyderabad and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner retired from service as Assistant Engineer. While in service, he was implicated as sole accused in CC No.70 of 2014 on the file of II Additional Special Judge for SPE & ACB Cases, Hyderabad. By the time petitioner was retired from service, as criminal case was pending against him, retirement benefits were not paid, but he was only granted provisional pension.

2. The Criminal Court, by judgment dated 30.01.2015, acquitted the accused. As a consequence to the acquittal granted to him, petitioner submitted representation to release his retirement benefits. By Memo No.9950/Vig.I-2/2007-38, dated 24.08.2015, the claim of the petitioner was rejected on the ground that decision was taken to prefer appeal against acquittal granted to him by the Special Court and the terminal benefits would be paid only after the criminal appeal is disposed of. Aggrieved by the same, this writ petition is filed.

3. Learned counsel for petitioner submits that full retirement benefits were not released only on the ground that criminal case was pending against him and no departmental proceedings were initiated against him. Thus, once he was acquitted in criminal Court, there can be no impediment in releasing all the retirement benefits and denial of the same is illegal. He would submit that mere decision to prefer an appeal or preferring the appeal is no ground to release the retirement benefits once acquittal is granted. In support of the said contention, he placed reliance on the

decision of this Court in **Chief Commissioner of Land Administration, A.P., Hyderabad and another v. R.S.Ramakrishna Rao and another**¹.

4. Learned Government Pleader do not dispute the factum of acquittal granted to the petitioner. He would only submit that since decision is taken to prefer appeal and right is vested in the State to file appeal against acquittal granted and appeal is in continuation of original proceedings and, therefore, till the appeal is decided, it is deemed that criminal proceedings are pending and during pendency of the criminal proceedings, retired employee is not entitled to seek full retirement benefits.

5. I am afraid such contention is not tenable. Once competent Court granted acquittal, for all purposes employee is deemed to have been blemish less and he is entitled to all retirement benefits flowing out of retirement from service. It is not in dispute that no departmental proceedings were initiated while he was in service and no proceedings are pending.

6. This very issue was considered by the Division Bench of this Court in **Ramakrishna Rao**. Division Bench held as under:

“20. Insofar as the criminal cases are concerned, the Department has got a right to file an appeal. But, it cannot be said that the judicial proceedings have not been concluded. Once the criminal court acquits the accused, it must amount to be the conclusion of the judicial proceedings in the first instance. Therefore, the appeals filed against the acquittal orders cannot be treated as continuation of criminal proceedings. The same view was taken by a Division Bench of Calcutta High Court in *State*

¹ 2010 (2) ALD 773 (DB)

of West Bengal and others. V. Hari Ramalu and another case (2000 (4) SLR 91), referred to above. Para 9 of the said judgment reads as follows:-

“The submission of Mr.Chakraborty to the effect that pendency of the appeal against acquittal will amount to continuation of the proceedings cannot be accepted. Continuation of the proceedings must relate to investigation, enquiry or trial, and such investigation, enquiry or trial, if any, have come to an end with the judgment of acquittal. The same being continuing in the instant case, is misconceived, only on the ground that an appeal there against is pending. If the respondent No.1 is convicted by the Appeal Court for commission of a criminal offence, sub-rule (4) of Rule 3 of the said Rules would be attracted. Keeping in view the fact that different sub-rules of Rules 3 operative in different fields, we are of the opinion that sub-rule (3) of Rule 3 be held to be operative only in the case namely, when an investigation enquiry or trial remains pending and not or when the employee person is acquitted. The situations obtaining under different sub-rule being absolutely different, in our opinion, sub-rule (3) of Rule 3 must be given a restrictive interpretation.”

21. xxxxxx

22. If the appeal or revision proceedings are in continuation of the criminal proceedings, there will be no end for the litigation and the employees, who have been acquitted honourably, shall not get retirement benefits till conclusion of all appeals, revisions, special leave petitions etc. Appeal against acquittal, not being continuation of original criminal proceedings, Rule 52 as above, will not be available to Government for withholding retirement benefits.”

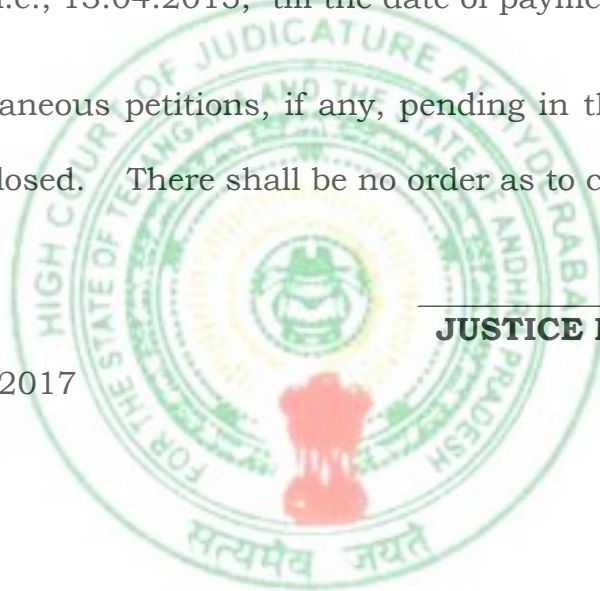
7. Thus, in the instant case also, petitioner is entitled to retirement benefits as a consequence to the acquittal granted by the Special Court. Writ petition is allowed.

8. Respondents are directed to release all retirement benefits within a period of eight weeks from the date of receipt of copy of this order. Since there was inordinate delay in settlement of retirement benefits and denial in settling the retirement benefits is not valid in law, respondents are directed to pay interest @ 6% p.a., from the date of submission of representation after acquittal was granted i.e., 13.04.2015, till the date of payment.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

Date: 20.03.2017
kkm

JUSTICE P.NAVEEN RAO



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