

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.8076 OF 2018

ORDER:

This writ petition is filed challenging the proceedings dated 30.11.2017 whereby the 1st respondent granted 75% of the normal pension to the petitioner to safeguard for recovery of excess payment already made and also to clear the audit objections.

Learned counsel for the petitioner submits that challenging the order of reversion and also recovery of the excess amount, petitioner filed WP.No.28982 of 2010 and this Court granted interim suspension of the said reversion order dated 8.10.2010 vide order dated 20.10.2010 and vacate stay petition filed by the 1st respondent was also dismissed in June, 2014. But, on 07.01.2011, the 1st respondent once again reverted the petitioner from the post of Superintendent to Senior Assistant after issuing notice and calling explanation; and that the petitioner also once again filed WP.No.2268/2011 and this Court vide order dated 07.02.2011 granted interim direction to the 1st respondent to continue the petitioner in the promotion post as Superintendent. Thereafter, when the petitioner was issued relieving order on the ground that he has attained the age of 58 years, the petitioner filed writ petition and this Court granted interim order directing the 1st respondent to continue the petitioner in service till he attains 60 years of age. Basing on the same, petitioner was continued in service and retired on 30.06.2017. Learned counsel submits that when petitioner's

reversion order is suspended and petitioner was continued in the promotion post basing on the interim orders of this Court, he is entitled for pension and there cannot be any recoveries.

On the other hand, learned Standing Counsel for 1st respondent submits that since writ petitions filed by the petitioner are pending, only 75% of the pension was released as per Rule 52(1) (a) of the Andhra Pradesh Revised Pension Rules, 1980.

Rule 52(1) (a) of the Andhra Pradesh Revised Pension Rules, 1980, reads as follows;

“52. Provisional pension where departmental or judicial proceeding may be pending:-

(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Audit Officer/Head of Office shall pay the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government Servant, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension.”

It is to be seen that the facts of the case show that Rule 52(1) (a) of the Andhra Pradesh Revised Pension Rules, 1980, has no application, as such, the respondents cannot stop pension and other retirement benefits to the petitioner.

Admittedly, petitioner worked in promotion post till attaining 60 years of age, as such he cannot be denied full pension and

contingencies envisaged under Rule 52(1) of the A.P.Revised Pension Rules, 1980, has no application.

In view of the same, the respondents are directed to release full pension as per rules subject to further orders in the writ petitions filed by the petitioner, earlier.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

26.04.2018
t k.

A.RAJASHEKER REDDY, J

