THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.Nos.13888 and 15753 of 2018

COMMON ORDER :

Heard the counsel for petitioner in both the Writ Petitions, and the Special Government Pleader for Home (Services), for respondents, in both the Writ Petitions.

2. The petitioner was an employee of the Home Department of the State of Telangana and retired from service on 30.06.2017. He has filed W.P.No.13888 of 2018 alleging that an amount of Rs.4,28,000/- has been withheld from his retiral benefits; and also WP.No.15753 of 2018 challenging a Memo dt.16.03.2018, issued by the 3rd respondent, stating that petitioner is indebted to Telangana Grameena Bank, Adilabad, and that he should pay a sum of Rs.4,28,058/- to the said Bank and obtain 'No Dues' certificate from the said Bank, and only then his pending DD/BC amounts will be paid to petitioner.

3. The petitioner contends that though there is a criminal case filed against him by the Telangana Grameena Bank before the Judicial First Class Magistrate, Adilabad in C.C.No.297 of 2017 in regard to a loan transaction between petitioner's wife and the said Bank, there is no attachment order from the said Court; and the respondents cannot withhold the amounts payable to petitioner which are forming part of his retiral benefits.

4. In the counter-affidavit filed by respondents it is stated that the Department had sanctioned and paid all retirement benefits and all other benefits to petitioner, except increment arrears.

5. The Special Government Pleader sought to rely on the Telangana Revised Pension Rules, 1980, and in particular, Rule 9(6) thereof to justify the withholding of the increment arrears of petitioner.

6. In my considered opinion, the said Rules have no application to the petitioner since what has been withheld by the respondents is not his pension or gratuity but increment arrears which do not form part of the pension or gratuity of the petitioner. Also, the respondents cannot act as recovery agents of the Telangana Grameena Bank, Adilabad and withhold amounts payable to petitioner on his retirement from service on the pretext that the dispute between the petitioner and the said Bank has not been settled; nor can respondents direct that unless petitioner produced 'No Due' certificate from the said Bank, they would not release his pending DD/BC amount of Rs.4,28,058/- or threaten to make over the said amount to the Bank for attachment of the over-due loan amount.

7. The Bank has sufficient powers under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 as well as the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 as well as other modes of recovery available to it; and it is none of the business of the respondents to aid the said Bank for recovery of the amounts due to petitioner in the absence of any Court attachment order or direction from the competent Court to withhold the same.

8. Accordingly, the Writ Petitions are allowed. The respondents are directed to forthwith release increment arrears payable to petitioner as well as DD/BC amount of Rs.4,28,058/-.

9. The order dt.16.03.2018 of the 3rd respondent directing the petitioner to submit 'No Dues' certificate obtained from the Bank is held to be without jurisdiction and is set aside; and the respondents are directed to release the said amount to petitioner forthwith. No order as to costs.

10. As a sequel, miscellaneous petitions pending if any in these Writ Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10.12.2018
Ndr/*