

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No.5417 OF 2017
AND
CONTEMPT CASE (TR).No.341 OF 2017

Dated:03.10.2018

W.R.(TR).No.5417 OF 2017

Between:

G. Bhasker Kumar, S/o. G.J. Rama Sastry (Late),
Aged about 58 years, Retired as Secretary
(Literacy Wing), O/o. State Jawahar Bal
Bhavan, Telangana State, Public Gardens,
Hyderabad, R/o. Plot No.92, Road No.1,
Sri Sai Nagar, Nagole, Hyderabad

.. Petitioner

And

The Director and Special Officer,
State Jawahar Bal Bhavan, Govt.,
of Telangana, Public Gardens,
Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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AND

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COMMON ORDER:

Heard. With the consent of learned counsel for petitioner and learned Government Pleader for School Education, this Writ Petition (TR) is taken up for final disposal.

2. In this Writ Petition (TR), petitioner is challenging the proceedings, dated 30.08.2015, whereunder disciplinary proceedings were initiated against him. The charge memo contained four charges.

3. Disciplinary proceedings are challenged primarily on the ground that the charges relate to the period prior to the year 2002 and after long lapse of time, proceedings ought not to have been initiated against petitioner.

4. Having regard to the same, the Andhra Pradesh Administrative Tribunal (APAT), Hyderabad, suspended the proceedings dated 30.08.2015 and directed to release the pension and other retiral benefits to petitioner. Alleging that the same order was not complied with and disciplinary proceedings are continued against him, petitioner filed C.C.(TR).No.341 of 2017.

5. Though APAT granted interim suspension and further directions, the disciplinary proceedings are continued by appointing an enquiry officer; enquiry officer submitted his report on 12.10.2017 and enclosing a copy of the said enquiry report, a show cause notice dated 29.11.2017 was also issued to petitioner.

In response to the same, petitioner submitted his explanation on 30.11.2017. Thereafter, no further orders are passed.

6. It is interesting to note that though it is not permissible to the disciplinary authority to proceed further in view of the interim orders of the APAT, enquiry was continued. However, enquiry officer held all the charges levelled against the petitioner as not proved. Enquiry officer recorded that in spite of giving sufficient opportunity, no evidence was produced by the prosecution and therefore charges could not be established. Thus, the findings recorded by the enquiry officer are in favour of the petitioner. The disciplinary authority did not disagree with the findings recorded by the enquiry officer, but issued show cause notice calling for explanation by the petitioner on the report of the enquiry officer. Once enquiry officer recorded findings in favour of petitioner, unless the disciplinary authority disagrees with the findings and records is own tentative conclusions on the charges levelled and calls for explanation or orders for *de novo* enquiry, no further proceedings would lie. The fact that show cause notice was issued enclosing a copy of the enquiry officer when the enquiry officer recorded his findings in favour of the petitioner itself would show total non application of mind.

7. As rightly contended by learned counsel for petitioner, the incident relates to the year 2001 and disciplinary proceedings were set in motion in the year 2015, on the ground of inordinate delay and conclusion in disciplinary proceedings, having regard to the subsequent findings of the enquiry officer, in fact, nothing survives against the petitioner. Learned counsel also submits that as per the information furnished to him on the applications filed under the

Right to Information Act, the very charges were got enquired into by the department as early as in the year 2005. The same coupled with the fact that there is inordinate delay for initiating disciplinary proceedings and that the enquiry officer held that the charges are not proved, the petitioner is entitled to all the retirement benefits, as if he has retired from service without any blemish on the date when he attained the age of superannuation.

8. In view of the subsequent report dated 27.12.2017 of the enquiry officer, who held that the charges are not proved, and in view of the facts noted above that no disciplinary proceedings were validly initiated and pending on the date of retirement whereas there is inordinate delay in settlement of retirement benefits, the petitioner is entitled to interest on retirement benefits. The respondents are directed to pay interest at 8% per annum on all the retirements benefits from the date of due till date of payment. The retirement benefits shall be determined and paid to the petitioner within a period of two months from the date of receipt of a copy of the order.

9. The Writ Petition (TR) is accordingly allowed. There shall be no order as to costs.

10. In view of disposal of W.P.(TR).No.5417 of 2017, Contempt Case (TR) is closed. However, liberty is granted to the petitioner to initiate appropriate proceedings in the event of non-compliance of the directions issued in W.P.(TR).No.5417 of 2017.

Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:03.10.2018

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