

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.26695 of 2001

ORDER:

The petitioner, who worked as a Senior Assistant in the respondent University and retired from service, has filed this writ petition to declare the action of the respondent University in not paying the salary to the petitioner for the periods he worked and also the leave salary, and non-payment of pensionary benefits as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and to direct the respondent University to pay salary, leave salary and pensionary benefits to him.

The case of the petitioner is that in the year 1968 he was appointed as a Typist in the respondent University and thereafter, in the year 1993 he was promoted as Senior Assistant. After his promotion, the petitioner was transferred to Livestock Research Station, Mahaboobnagar. After working there for a period of 2½ years, he was transferred to Livestock Research Station, Chintaladevi, Nellore District in May, 1996 and he joined at Chintaladevi on 05.07.1996 and worked up to 15.09.1996. When he worked at Chintaladevi, the service record book and Last Pay Certificate (LPC) were not forwarded to the transferred office of Chintaladevi. The petitioner's troubles started because of not paying his salary till the date of his retirement on 31.08.2001. The petitioner was not keeping good health at Chintaladevi station. Because of sickness, the petitioner applied for leave and he sent as many as 12 leave letters from time to time to the higher authorities. The petitioner again transferred to the Agricultural Polytechnic College, Jagityal from Chintaladevi in October, 1998 while he was on leave. The leave of the petitioner from 16.09.1996

to 10.10.1998 was not yet sanctioned and on his transfer to Jagityal Agricultural Polytechnic College, he was continued on leave. Thereafter, the petitioner was again transferred from Jagityal to Rudrur, vide proceedings, dated 10.07.1999 and he joined at Rudrur on 01.01.2000. From 09.02.2000 the petitioner went on leave on medical grounds. The petitioner was not paid salaries from May, 1996 onwards, except for the period from 10.10.1998 to 31.03.1999 minimum in the basic at Jagityal. The petitioner is entitled for payment of salaries, half pay for 100 days, earned leave for 45 days and full salary in view of the leave available to his credit. The petitioner was not paid General Provident Fund and Group Insurance amount of Rs.12,000/- and Rs.10,000/- respectively. While the petitioner was in service, a charge memo, dated 05.09.2000 was issued for his unauthorized absence. Thereafter, the petitioner received a memo, dated 19.04.2001 on 25.04.2001, wherein he was asked to submit his explanation to all memos, including the memo, dated 05.09.2000. All the charges basically related to his absence from duty without sanction of leave and handing over of the charge at Livestock Research Station, Mahaboobnagar. The petitioner submitted a detailed explanation to the charge memo. Some times, the petitioners appeared before the Enquiry Officer and thereafter, he was retired on attaining the age of superannuation on 31.08.2001. Thereafter, the petitioner was not aware of any disciplinary proceedings initiated against him, but his pension and retiral benefits were not settled. Being aggrieved by the same, the present writ petition is filed.

The 1st respondent filed counter stating that the petitioner was transferred from Livestock Research Station, Mahaboobnagar to Livestock

Research Station, Chintaladevi on administrative grounds. The petitioner was on casual leave with effect from 17.05.1996 and he was instructed to report at Livestock Research Station, Mahaboobnagar to handover the complete charge to his reliever, but he did not bother to handover the complete charge of his seat even after his retirement. Instead of joining at Livestock Research Station, Chintaladevi, the petitioner submitted a representation to the respondent University on 15.06.1996 to transfer him to Regional Agricultural Research Station, Palem/Hyderabad. The request of the petitioner was negated on 20.06.1996. The petitioner was again instructed to join at Livestock Research Station, Chintaladevi. The petitioner did not join at new place and instead, sent his leave application, dated 26.06.1996, from Rajamundry for 10 days from 21.06.1996 enclosing a medical certificate. The petitioner joined at Livestock Research Station, Chintaladevi on 12.07.1996 without handing over complete charge of the post of Senior Assistant at Livestock Research Station, Mahaboobnagar. On his joining at Livestock Research Station, Chintaladevi, the petitioner had drawn an amount of Rs.5,450/- towards TTA advance and Rs.1,700/- towards pay advance, but he did not submit TTA bill till date in settlement of the advance drawn. The petitioner has also not settled the rental and electricity dues at Chintaladevi. The petitioner has not furnished any fitness certificate from the Doctor after the period of leave applied by him from 21.06.1996 to 30.06.1996, as required by regulation, since the petitioner had applied for leave on medical grounds. The petitioner had also not submitted any leave letter for 20.06.1996. Since the petitioner did not hand over the complete charge of the post of Senior Assistant at Livestock Research Station,

Mahaboobnagar, and in the absence of fitness certificate and leave applications, his leave could not be regularized and his Last Pay Certificate could not be issued by the Head Office of Livestock Research Station, Mahaboobnagar. As per rules, an employee on his transfer to another station shall have to handover complete charge and to obtain "No Dues" certificate at the time of his relief. On joining at the place of posting and on intimation and request to the former station, the Last Pay Certificate and Service Registers be furnished. The petitioner had not vacated the quarters, which was in occupation at Livestock Research Station, Chintaladevi. The petitioner joined as Senior Assistant at Regional Agricultural Research Station, Jagtial on 10.10.1998. After joining at Jagtial on 10.10.1998, the petitioner attended the office only for 82 days out of 298 days i.e., during the period from 10.10.1998 to 12.06.1999. Most of the period of absence of the petitioner was unauthorized. The petitioner was absent since 07.05.1999 onwards at Agricultural Polytechnic, Jagtial. Due to frequent absence of the petitioner who had been absconding from duty without intimation and prior approval of the leave, Sri R.Swamy, another Senior Assistant was posted in the place of the petitioner on 21.06.1999. The petitioner made a representation to the respondent on 09.07.1999 for issue of posting orders at Jagtial. To avoid hardship to the petitioner, vide proceedings dated 10.07.1999 the petitioner was posted to Regional Sugarcane & Rice Research Station, Rudru in Jagtial Zone, i.e., Northern Telangana Zone of the respondent University. Transfer shall be effected for every three years in general and on administrative grounds at any time at the discretion of the authorities. Due to non-settlement of his leave, the petitioner's pay in revised Pay

Scales, 1999 was held up. While the petitioner was working at Chintaladevi, he has abruptly absconded from duty even without handing over keys of cash chest. When Panchanama was conducted and the cash chest was opened with duplicate keys, it was found that an amount of Rs.2,229-50 ps was missing from the cash chest. It is evident that the petitioner misappropriated the University amount to the extent of Rs.2,229-50 ps. The petitioner, who absented from duty from 09.02.2000 onwards unauthorizedly, has submitted his joining report to the Registrar on 30.06.2001 i.e., after a period of one year four months. As the petitioner denied the charges, Sri K.Satyanarayana Murthy, Joint Registrar, Administration Office, was appointed as Enquiry Officer to conduct detailed enquiry on the lapses leveled against the petitioner, vide Memo No.1238/Ser.V/A1/2000, dated 27.06.2001 on intimation to the petitioner. Charges were framed against the petitioner for the lapses, vide Memo No.38030/A/96, dated 05.09.2000. The petitioner submitted his reply on 09.06.2001. The petitioner retired from service on 31.08.2001 on attaining the age of superannuation. The enquiry was conducted on 27.08.2001 and the petitioner attended the enquiry on 27.08.2001 and 28.08.2001. While the petitioner was attended the enquiry on 28.08.2002, he reported chest pain. The petitioner was sent to NIMS, Hyderabad. The wife of the petitioner had taken the petitioner from NIMS to Rajamundry for treatment. The Enquiry Officer informed the petitioner to communicate his convenient date for enquiry from among two dates, viz., 11.10.2001 and 07.11.2001 for fixing the enquiry. The petitioner did not turn up for the enquiry. The petitioner was given a chance to attend the enquiry on 11.01.2002 and 12.02.2002. But the

petitioner sent a telegram on 05.02.2002, stating that he was suffering from paralysis and sought for extension of time. The enquiry was fixed again on 22.03.2002, but the petitioner has informed that it was not convenient to him. The enquiry was again fixed on 01.04.2002 duly informing the petitioner that no extension of time would be given and the enquiry report would be submitted to the University based on the material available with the enquiry officer. The petitioner did not appear before the enquiry in spite of several opportunities. Several officers connected with the enquiry were appeared before the enquiry on specific dates and they were paid TA & DA, for which the University incurred huge amounts. The counter is silent as to whether the enquiry is completed and the enquiry report is submitted to the Disciplinary authority to take action against the petitioner.

In the facts and circumstances of the case, this court found that the respondent University has not completed the enquiry and not initiated any disciplinary proceedings thereafter against the petitioner. The pay and retiral benefits of the petitioner were not settled. The counter was filed by the respondent University on 16.12.2002, but the same is silent as to whether the enquiry is concluded and any disciplinary action is taken against the petitioner and any payments were made to the petitioner. The petitioner died on 05.10.2003. As seen from the affidavit filed in support of the L.R.Petition (WPMP No.2066 of 2004), pursuant to the interim order, dated 22.07.2002, the provisional pension was being paid during the lifetime of the deceased petitioner. The salary and other pensionary benefits are due to the petitioner. Petitioners Nos.2,3 and 4 were brought on record as legal representatives of the deceased

petitioner, vide orders dated 30.01.2004, in WPMP.No.2066/2004. They are entitled to receive the salary and other retiral benefits of the deceased petitioner.

In view of the facts and circumstances of the case, the writ petition is disposed of, directing the respondent University to consider and settle the payment of salary due, leave salary, gratuity and other retiral benefits payable to the deceased petitioner and pay the same to petitioners Nos.2, 3 and 4 proportionately, within a period of 2 (two) months from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 24.07.2018
Dsr



M.GANGA RAO,J