

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* THE HON'BLE MS. JUSTICE J. UMA DEVI

+ W.P.NO.33724 of 2018

% Date: 19-09-2018

Between:

J. Suvarna Raju, S/o. Davedu,
R/o. H.No.2-2-1109, Plot No.EWS/61,
Bhatukamma Kunta, Shivam Road,
Hyderabad – 500044.

.... Petitioner

And

1. The State of Andhra Pradesh, rep. by its Principal Secretary to Government, Legislative Affairs, Law Department, Secretariat, Velagapudi, Amaravati, Guntur District.
2. High Court of Judicature at Hyderabad For the State of Telangana and Andhra Pradesh, rep. by its Registrar (Vigilance), High Court Premises at Hyderabad.

... Respondents

! Counsel for the Petitioner : Mr. J. Suvarna Raju Party-in-person

^ Counsel for Respondent No.1 : G.P. for Law & Legislative Affairs (AP)

^ Counsel for Respondent No.2 : Mr. Y. Rama Rao

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> HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.33724 of 2018

ORDER: (Per VRS,J.)

Aggrieved by the non-consideration of the representation, for relaxation of the A.P. Revised Pension Rules, 1980 the petitioner, who is a compulsorily retired judicial officer, has come up with the above writ petition.

2. Heard the petitioner appearing in person.

3. The learned Government Pleader for Law Department takes notice for the 1st respondent. Mr. Y. Rama Rao, learned Standing Counsel takes notice for the 2nd respondent.

4. Pursuant to the disciplinary proceedings initiated against him, the petitioner was imposed with a penalty of compulsory retirement, by G.O.Ms.No.156, Law Department, dated 12.06.1997. The challenge made by the petitioner to the order of compulsory retirement in W.P.No.698 of 1998 failed with the dismissal of the writ petition by order dated 26.09.2000. It appears that the Special leave Petition filed by the petitioner was also rejected.

5. The petitioner, thereafter, made representations to the various Authorities, seeking relaxation of the A.P. Revised Pension Rules, 1980 and the consideration of his case for the grant of minimum pension. The reason, why the petitioner had to make such a representation, was that the petitioner entered service in the year 1989 and he was compulsorily retired in June, 1997 after putting service for a period of about eight years. Therefore, he was considered to have not completed the minimum

qualifying years of service, though the penalty of compulsory retirement by itself was not a bar for grant of pension.

6. However, the representation made by the petitioner, did not yield the desired result, forcing him to come up with the above writ petition.

7. The copy of the representation dated 10.06.2017 sent by the petitioner is filed as Ex.P.1. But the same has been addressed to his Excellency the Governor.

8. Actually under Rule 54 of the A.P. Revised Pension Rules, 1980, the Government is vested with the power to relax the application of the Rules, subject to certain conditions. This is in contrast to Rule 31 of the A.P. State and Subordinate Services Rules, which vests the power of relaxation only upon the Governor. The power of relaxation is conferred either upon the Government or upon the Governor, depending upon the scope and ambit of the Rules in question. While the power to relax the application of any of the Rules in the State and Subordinate Services is conferred upon the Governor alone, the power to relax the Rules under the A.P. Revised Pension Rules is conferred upon the Government. Therefore, the petitioner should actually make a representation to the Law Department and the Home Department.

9. In his representation as well as in the writ petition, the petitioner has indicated the circumstances in which his family is placed. It is stated by the petitioner that he belongs to Scheduled Caste and that he was a first generation graduate as well as a lawyer. He has stated that his parents were illiterate and he has got three children, all of whom are now unemployed. Therefore, the contention of the petitioner is that the conditions stipulated in Rule 54, squarely apply to his case.

10. Rule 54 of the A.P. Revised Pension Rules, 1980 enables the Government to relax the Rules, if the Government is satisfied that the operation of any of the Rules causes undue hardship in any particular case. The case of the petitioner is that the application of the Rules with regard to the minimum qualifying service has caused undue hardship to his family.

11. If that be so, the appropriate course of action open to the petitioner is to make a representation to the concerned authority. Therefore, the writ petition is disposed of permitting the petitioner to make a representation to the Secretary to the Government, Law Department and the Secretary to the Government, Home Department, of the Government of A.P, explaining the undue hardship that is caused to him by the application of the Rules and seek relaxation under Rule 54. If a representation is so made by the petitioner, the same shall be considered by the concerned Authorities, in accordance with the law and disposed of within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

12. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE J. UMA DEVI

19th September, 2018
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.33724 of 2018



19th September, 2018

Js.