

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVIL

W.P.NO.42613 OF 2017

ORAL ORDER (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, petitioner has challenged order dated 24.02.2016 passed by the Andhra Pradesh Administrative Tribunal in O.A.No.1355 of 2013.

The learned counsel appearing on behalf of the petitioner submits that the prayer before the Tribunal was as under:

“To declare the entire action of the 2nd respondent in raising objections vide his letter S.A.(Spl Cell) No.484 dated 1.10.2012 with regard to pension fixation of the applicant and ordering recovery as highly illegal, arbitrary, unjust, improper, violative of principles of natural justice and consequently hold that the applicant is entitled for all his pensionary benefits in accordance with original pension proposals submitted by the 1st respondent vide his letter dated 31.08.2012 and that it holds good for all the purposes and the applicant is entitled for his service pension of Rs.8,525/-, gratuity of Rs.3,99,317/-, commutation value of Rs.3,35,298/- as it is without further recovery and without any reductions.”

However, the Tribunal by the aforesaid order, disposed of O.A. as under:

“13. In the present case on hand also, it is to be noticed that the pay fixation alleged to have been made in excess was done in June, 1994 and the said fixation of pay continued till the applicant retired from service in August, 2012 i.e., for a period of 18 years and 2 months. Apart from that in the present case, recovery was made from his retirement gratuity. Therefore, the case squarely falls within the three parameters postulated by the Hon'ble Apex Court in concluding portion of the judgment in para 12 at items 1, 2 and 3. Therefore, I am of the considered view that the case is squarely covered by the orders of the Hon'ble Supreme Court cited supra and the action of the respondents in recovering the amount of Rs.50,206/- from the gratuity of the applicant is liable to be declared as impermissible, illegal and arbitrary and is accordingly, declared as illegal and arbitrary. Consequently, the respondents are directed to refund the amount of Rs.50,206/- to the applicant, within a period of four weeks from the date of receipt of a copy of this order. The O.A., is allowed accordingly. No costs.”

After hearing the learned counsel for the petitioner, we are of the considered opinion that the Tribunal has not considered the prayer as sought for by the petitioner. Therefore, we hereby close the present writ

petition, giving liberty to the petitioner to approach the Tribunal seeking review of the order passed in O.A.No.1355 of 2013 dated 24.02.2016. On such an application being filed, the Tribunal is directed to consider the case of the petitioner afresh on the leftover issues as prayed for in O.A.No.1355 of 2013.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

SURESH KUMAR KAIT,J

ABHINAND KUMAR SHAVIL,J

DATE:22—01—2018

AVS

