

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.(TR)No.3437 OF 2017

ORDER

This writ petition is filed seeking the following relief:

“...to declare that the applicant is entitled for all his due retirement benefits consequent on his retirement by 30.06.2006 due to superannuation by concluding the departmental enquiry as per Memo No.55160/C2-V4/84, dt. 22.10.2010 issued by the 1st respondent within a reasonable period failing which the departmental enquiry shall be dropped, by holding the action of the respondents in not concluding the departmental enquiry against the applicant as per memo dt.22.10.2010 and further not paying the applicant's due retirement benefits is as illegal, arbitrary, discriminatory and subversive of Articles 14 and 16 of the Constitution of India and pass such other order orders.”

Heard Sri Jagannatha Rao, learned counsel appearing for the petitioner and learned Government Pleader for Services-II appearing for the respondents.

It is the case of the petitioner that while working as Administrative Officer, he has retired from service on attaining the age of superannuation on 30.06.2006. One day prior to his retirement, the respondents have issued a charge memo dated 29.6.2006 alleging that he has misappropriated certain funds and that they are proposing to initiate departmental proceedings against him. The said issue

pertains to the year 1983. Because of pendency of the charge memo, retiral benefits of the petitioner were not settled. Hence, the petitioner has filed O.A.No.6443 of 2007 before the then Andhra Pradesh Administrative Tribunal. Initially, the Tribunal has granted interim stay of the charge memo, thereafter, *vide* judgment dated 28.9.2010 dismissed the said O.A.

Learned counsel appearing for the petitioner contended that after dismissal of O.A.No.6443 of 2007, the 1st respondent had issued a Memo dated 22.10.2010 directing the 2nd respondent to continue the enquiry and submit a report at an early date. In spite of the said direction, the disciplinary proceedings were not concluded. When the disciplinary proceedings were not concluded even after lapse of more than five years, the petitioner has filed O.A.No.1484 of 2015 before the then Andhra Pradesh Administrative Tribunal. The Tribunal granted interim direction on 11.3.2015 directing the respondents to conclude the disciplinary proceedings within three months. In spite of the said direction, the respondents have not concluded the disciplinary proceedings. Consequent upon the winding up of the Tribunal, the said O.A.No.1484 of 2015 was transferred to this Court and re-numbered as W.P.(TR) No.3437 of 2019.

Learned counsel appearing for the petitioner contended that during pendency of this writ petition, the respondents have appointed an Enquiry Officer and the Enquiry Officer has submitted the report to the 1st respondent on 22.2.2017 wherein it was held that the charges levelled against the petitioner were not proved. In spite of the Enquiry Officer submitting the report, the disciplinary proceedings have not been concluded by the respondents. It is prayed that appropriate orders be passed in the writ petition directing the respondents to conclude the disciplinary proceedings within a reasonable time and to direct the respondents to settle all pensionary benefits to the petitioner.

Learned Government Pleader appearing for the respondents contended that the 1st respondent would consider the enquiry report and conclude the disciplinary proceedings within a period of two months.

Having considered the rival submissions made by the learned counsel on either side, this Writ Petition can be disposed of directing the 1st respondent to conclude the disciplinary proceedings initiated against the petitioner within two months from the date of receipt of a copy of this order. If the disciplinary proceedings are not concluded within the

stipulated period, then the disciplinary proceedings are deemed to be set aside on the ground of delay and laches.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, pending, if any shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 21.11.2019

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