

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12589 OF 2019

ORDER :

Heard learned counsel for the petitioner and the learned Government Pleader for Irrigation and CAD Department.

2. Petitioner retired from service as Officer Superintendent on 28.02.2015. This writ petition is filed alleging that the respondents have not released the complete retirement benefits to the petitioner and have not paid pension even though the petitioner retired from service in the year 2015. Petitioner is only paid 75% of the pension payable to him as the provisional pension.

3. According to the learned counsel for the petitioner, Crime No.261 of 2013 on the file of Khammam II Town Police Station was registered against the petitioner and investigation is still pending with the CBCID. The petitioner was placed under suspension on 22.06.2013. On the date of attaining the age of superannuation, petitioner was allowed to retire from service. However, so far, no disciplinary proceedings are initiated against the petitioner and in the criminal case, so far, investigation is not completed and charge sheet is not filed. Learned counsel, therefore, seeks payment of all the retirement benefits to the petitioner.

4. According to the learned Assistant Government Pleader, since investigation is pending in criminal case, petitioner is not

entitled to receive full pensionary benefits, whereas the benefits, such as, family Benefit Fund amount, Andhra Pradesh Group Insurance Scheme amount, General Provident Fund amount and the Andhra Pradesh Government Life Insurance amount are already paid. She would further submit that in view of the provision contained in Rule 9(6)(a) of the A.P. Revised Pension Rules, 1980 (for short 'the Rules'), the petitioner is not entitled to payment of full pension as he was under suspension prior to his retirement and the disciplinary proceedings were pending on the date of his retirement, and therefore, he was rightly denied payment of full pensionary benefits.

5. It is not in dispute that so far, no charges are framed in disciplinary proceedings. In terms of Rule 9 (6) (a) of the Rules disciplinary proceedings are deemed to be pending if an employee was placed under suspension before his retirement. But, by merely placing the employee under suspension before retirement, the respondents cannot keep quiet even after more than four and half years of the retirement of the petitioner. There is no explanation in the counter affidavit as to why disciplinary action was not taken against the petitioner. In fact, as submitted by the learned Government Pleader, the respondents are waiting for the CBCID to complete its investigation and file charge sheet and there is no proposal to take disciplinary action against the petitioner till such investigation is completed and criminal action against the petitioner is concluded. If that being so, as no charge sheet is filed in criminal case

it cannot be said that criminal proceedings are pending against the petitioner and as fairly submitted by learned Assistant Government Pleader so far charges are not framed in disciplinary proceedings. In the facts of this case, it has to be assumed that respondents are not contemplating to take disciplinary action. Thus, for no fault of the petitioner, he is deprived of his retirement benefits. In the facts of the case, petitioner is entitled for retirement benefits.

6. Hence, the writ petition is allowed. The respondents are directed to release all the retirement benefits payable to the petitioner within a period of two (2) months from the date of receipt of a copy of this order. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

August 26, 2019

KTL

P.NAVEEN RAO, J