

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.14345 of 2019

ORDER:

This writ petition is disposed of at the stage of admission with the consent of both the parties.

This writ petition is filed seeking the following relief :-

“..... to issue an order or orders or direction or writ more particularly in the nature of mandamus declaring the action of the Respondent authorities in not granting the arrears of pension and pensionary benefits i.e., retirement benefits, GPF, Gratuity, Commutation etc., due to the petitioner for the post attached with interest as may be prescribed by this Hon'ble court and also award exemplary costs for the delay by holding the action of the Respondents in withholding pension and pensionary benefits of the petitioner including stay of recovery of amount/ salary from 01.02.2018 to 30.09.2018 by processing the pension papers though the petitioner was asked to retire on 31.01.2018 by Respondent No.2 based on the baseless unwarranted issue which is in violation of the principles of natural justice and denying reasonable opportunity without any material or justification and authorisation as bad, illegal, arbitrary, discriminatory, unconstitutional, unjust, besides being inhuman, biased, vindictive and consequently direct the Respondents to release the pension and pensionary benefits with arrears by processing the pension papers with immediate effect”.

Heard Mr.K.Laxmi Manohar, the learned counsel for the petitioner and the learned Government Pleader for respondents.

It has been contended by the petitioner that he was appointed as Physical Director with the respondents and in the SSC Record, his date of birth was wrongly entered as '10.01.1960' instead of '10.01.1963'. After realizing that his date of birth was wrongly entered in the SSC Record, the petitioner has filed O.S.No.175 of 1990 before the District Munsiff Court at Medak. The

District Munsiff was pleased to decree the said suit on 06.05.1992 and corrected the date of the birth of the petitioner as '10.01.1963' instead of '10.01.1960'. Accordingly, the date of birth of the petitioner was entered in the service register as 10.01.1963 and he has been discharging his duties to the best satisfaction of his superiors and every one concerned. While so, the respondents have issued proceedings dated 19.09.2018 retiring the petitioner from service on attaining the age of superannuation as per SSC Record with effect from 31.01.2018 and directing the petitioner to refund the salary, which he has drawn from 01.02.2018 to 30.09.2018. Aggrieved thereby, the petitioner has earlier filed W.P.No.34860 of 2018 and the same was withdrawn on 19.08.2019.

Learned counsel for the petitioner contended that as per the order dated 19.09.2018, the petitioner retired from service on attaining the age of superannuation with effect from 31.01.2018 basing on the SSC. record and the petitioner is not interested to pursue his remedies seeking alteration of his date of birth. Therefore, appropriate orders be passed in the writ petition directing the respondents to process the pension papers of the petitioner for release of pension and settle his pensionary benefits within a reasonable period of time.

Learned Government Pleader appearing for the respondents contended that as per the order dated 19.09.2018, the respondents would process the pension papers of the petitioner and settle his terminal benefits in accordance with law.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that this writ petition can be disposed of directing the

respondents to treat the date of retirement of the petitioner as 31.01.2018 and process the pension papers of the petitioner and settle his terminal benefits in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

After dictating the order, the learned counsel for the petitioner submits that the petitioner has continued in service even after retirement from 01.02.2018 to 30.09.2018 and the petitioner was paid only six months salary, but the respondents are taking steps to recover eight months salary, which is unjust.

This Court is of the considered view that if the petitioner has got any grievance in respect of recovering excess amount from him, it is always open to him to submit a representation to the respondents stating that he was only paid six months salary and the respondents are taking steps to recover eight months salary. Upon such representation being made, the respondents shall consider the same and pass appropriate orders in accordance with law within the time stipulated above.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 23-10-2019
Prv

