

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION Nos.23679, 23711, 23732, 23836 and 23859 of 2019

COMMON ORDER:

Since the issue raised in these writ petitions is one and the same, they are being disposed of by this common order.

Heard Mr.C.Sharan Reddy, the learned counsel for the petitioners and the learned Government Pleader for Services-I.

For the sake of convenience, the facts in W.P.No.23679 of 2019 are discussed hereunder :-

W.P.No.23679 of 2019 is filed seeking the following relief :-

“.....to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not releasing the retirement benefits to the petitioner including pension though he was acquitted in C.C.No.530 of 2005 on the file of the II Additional Judicial Magistrate of First Class, Khammam, inspite of the representation dt.27.11.2017 as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and contrary to A.P.C.S (CC and A) Rules 1991 and consequently direct the respondents to release the retirement benefits to the petitioner by considering his notional promotion to the post of Sub-Treasury Officer, Assistant Treasury Officer and District Treasury Officer, pursuant to the representation dt.27.11.2017”.

It has been contended by the petitioner that he was appointed as a Lower Division Accountant on 04.02.1972 and after rendering considerable length of service, he retired on 31.05.2006 as Senior Accountant. The petitioner submits that disciplinary proceedings were initiated against him way back in September, 1996 on the alleged ground that he has misappropriated Government funds. The petitioner further submits that he was also

tried in a criminal case i.e., C.C.No.530 of 2005 for the very same set of allegations and he was acquitted on 27.07.2017 by the II Additional Judicial Magistrate of First Class, Khammam. The petitioner contends that though he retired from service on attaining the age of superannuation on 31.05.2006, the respondents are not settling pension and pensionary benefits on the ground that disciplinary proceedings are pending against him. Since the petitioner was acquitted by the competent criminal Court, he has submitted a representation to the respondents on 27.11.2017 requesting to settle pension and pensionary benefits and also consider his case for promotion to the next higher post on notional basis. But, so far, the respondents have not passed any orders on the said representation nor released pension and pensionary benefits in his favour.

Learned counsel appearing for the petitioners contends that appropriate orders be passed in the writ petition directing the respondents to release pension and pensionary benefits in favour of the petitioners and if the disciplinary proceedings are still pending against the petitioners, direct the respondents to conclude the disciplinary proceedings within a reasonable period of time preferably within a period of six months.

Learned Government Pleader appearing for the respondents, on instructions from the 2nd respondent, has contended that the disciplinary proceedings were entrusted to the Commissioner of Enquiries and since the matter is pending before the Commissioner of Enquiries, the respondents would conclude the disciplinary

proceedings within a reasonable period of time preferably within a period of six months.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that since the disciplinary proceedings are pending against all the petitioners and since the matter is entrusted to the Commissioner of Enquiries, these writ petitions can be disposed of directing the respondents to conclude the disciplinary proceedings initiated against the petitioners within a reasonable period of time, preferably within a period of six months from the date of receipt of a copy of this order.

If the disciplinary proceedings are not concluded, as directed above, the respondents shall release pension and pensionary benefits in favour of the petitioners with all consequential benefits by treating that the disciplinary proceedings have been dropped. The said observation is made because the incident of alleged misappropriation took place in the year 1992, the disciplinary proceedings are pending since 1996 and on the very same set of allegations, the petitioners were acquitted by the competent criminal court on 27.07.2017.

With the above observations, the writ petitions are disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 04-12-2019
Prv

