

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWENTY FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT PETITION NO: 31651 OF 2012

Between:

1. The Commissioner of Police, Hyderabad.
2. The Joint Commissioner of Police (Admn.), Hyderabad.
3. The Audit Officer, Directorate of State Audit, Hyderabad.
4. The Joint Director, Pension Payment Office, M.J. Road, Hyderabad.

...PETITIONERS/RESPONDENTS

AND

Samiuddin, Retd. HC 3245, S.B. City, Hyderabad City Police, R/o H.No. 2-3-647/A/344, Amberpet, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to Issue a Writ or any other appropriate proceedings, one in the nature of certiorari, calling for the records relating to and connected with the order dated 17.02.2012 in O.A.No. 11260 of 2009 on the file of Hon'ble Administrative Tribunal, Hyderabad and set aside the same holding it absolutely illegal, erroneous and violative of Constitution, in the interest of justice.

I.A. NO: 1 OF 2012(WPMP. NO: 40374 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

suspend the operation of the order dt. 17.02.2012 passed in O.A.No.11260 of 2009 by the Hon'ble A.P.Administrative Tribunal.

I.A. NO: 1 OF 2013 (WVMP. NO: 500 OF 2013)

Between:

Samiuddin, S/o. Mohd. Sharfuddin, aged about 63 years, Retd. Head Constable No.3245, Special Branch, Hyderabad, R/o. Hyderabad.

....PETITIONER/RESPONDENT

AND

1. The Commissioner of Police, Hyderabad.
2. The Joint Commissioner of Police (Admn.), Hyderabad.
3. The Audit Officer, Directorate of State Audit, Hyderabad.
4. The Joint Director, Pension Payment Office, M.J. Road, Hyderabad.

... RESPONDENTS/PETITIONERS

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim suspension order granted by this court in W.P.M.P.No.40374 of 2012 in W.P.No. 31651 of 2012, Dt. 10.10.2012 may be vacated as otherwise the petitioner herein would be put to irreparable loss and grave suffering.

Counsel for the Petitioner: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent: SRI K. ANANTHA RAO

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO
W.P.No.31651 OF 2012

ORDER: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

The Writ Petition is filed aggrieved by the Order dated 17.02.2012 passed by the Andhra Pradesh Administrative Tribunal (for short, "the Tribunal") in O.A.No.11260 of 2009.

2. Heard learned Additional Advocate General appearing for the petitioners and Sri K. Anantha Rao, learned counsel appearing for the respondent.

3. It has been contended by the petitioners that the respondent was working as a Head Constable and he has retired from service on 31.12.2007 and the respondent was erroneously paid Special Grade and SPP-I with effect from 01.04.1981 to 15.06.1986 and it has come to the notice of the petitioners that an excess amount of Rs.66,580/- was paid to the respondent and the petitioners have rightly passed orders on 10.06.2009 for recovery of the above said amount. Aggrieved by the said Order, the respondent has approached the Tribunal by filing O.A.No.11260 of 2009 and the Tribunal vide Order dated 17.02.2012 was pleased to allow the O.A. without appreciating

any of the contentions raised the petitioners. Therefore, appropriate Orders be passed in the Writ Petition by setting aside the Order dated 17.02.2012 passed by the Tribunal in O.A.No.11260 of 2009 and allow the Writ Petition.

4. Learned counsel for the respondent had contended that the issue is squarely covered by the judgment rendered by the Hon'ble Supreme Court in **State of Punjab & Ors vs Rafiq Masih¹** and contended that the amounts cannot be recovered from a retired employee.

5. This Court having considered the rival submissions made by the learned counsel appearing on either side, is of the considered view that the issue raised in the present Writ Petition is squarely covered by the judgment of the Hon'ble Supreme Court in the decision stated *supra* and the Tribunal was justified in allowing the O.A. in favour of the respondent. Therefore, this Court is not inclined to interfere with the Order dated 17.02.2012 passed by the Tribunal in O.A.No.11260 of 2009.

6. The Writ Petition is dismissed accordingly.

¹CA No.11527 of 2014 (Arising out of SLP(C) No.11684 of 2012)

Miscellaneous applications, if any, pending, shall stand closed.

No costs.

SD/- G. SIREESHA
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. Two CCs to the Advocate General, High Court for the State of Telangana at Hyderabad. [OUT]
2. One CC to SRI K. ANANTHA RAO, Advocate [OPUC]
3. Two CD Copies.

MP

✓

HIGH COURT

DATED:21/10/2022

ORDER

WP.No.31651 of 2012



DISMISSING THE WRIT PETITION
WITHOUT COSTS

⑥
AN
27/12