



Cont.P.No.326 of 2021

J.SATHYA NARAYANA PRASAD, J.

The above contempt petition was closed by this Court by order dated 20.03.2023.

2. Today, this Contempt Petition is posted 'for being mentioned'.

3. The following paragraph should be added after paragraph 7:-

“7.1. The learned counsel for the petitioner relied on the judgment of the Hon'ble Division Bench of this Court dated 12.01.2007, passed in W.A.No.939 of 2003, wherein, held as under:-

13.(a) The Honourable Supreme Court considered the issue as to whether a person, who is compulsorily retired due to lack of utility will lose the terminal benefits or not, in the decision reported in AIR 1979 SC 193 = (1979) 2 SCC 34 (Chief Justice of A.P. V. L.V.A. Dixitulu) and in para 39 held as follows, “39.....It is well settled that compulsory retirement simpliciter, in accordance with the terms and conditions of service, does not amount to dismissal or



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removal or reduction in rank under Article 311 or under the Service Rules because, the government servant does not lose the terminal benefits already earned by him.

20. The said position is further explained in the decision reported in 1992 Supp 91) SCC 664 (All India Reserve Bank Retired Officers Assn. V. Union of India) wherein in para 5 the Honourable Supreme Court held thus, “5.The concept of pension is now well known and has been clarified by this Court time and again. It is not charity or bounty nor is it gratuitous payment solely dependent on the whim or sweet will of the employer.

22.In the light of our above finding and having regard to the fact that the appellant's service was not terminated by way of punishment, but the termination of the appellant is similar to the one of compulsory retirement not by way of punishment, we are of the view that the appellant is entitled to get pension taking into consideration his 27 years of his service in the second respondent Corporation.”

4. Paragraph 12 should be replaced with the following paragraph:-



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“12. Learned counsel appearing for the respondent admitted that there is some discrepancies in regard to the payment of gratuity and as rightly pointed out by the learned counsel for the petitioner, the Dearness Allowance of a sum of Rs.9,861/- (Rupees Nine Thousand Eight Hundred and Sixty One Only) was also taken into consideration while calculating the gratuity.”

5. Paragraph 15 should be replaced with the following paragraph:-

“15. Hence, in view of above, the petitioner is not entitled for any pensionary benefits as per the letter dated 04.01.2023 of the respondent. In the letter dated 04.01.2023, the claim of the petitioner was answered in detail and all the benefits were paid to the petitioner as per the Rules of the United India Insurance Company Limited and there is discrepancies only in regard to the payment of gratuity which the respondent submits that the difference amount has been already settled to the petitioner. Though, the payment of the benefits is ordered by this Court, but it will be strictly in accordance with the Rules and Regulations of the Insurance Company in force as on date and in the instant case, the benefits were settled to the petitioner by following the same.”



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6. Registry is directed to issue fresh order copy after carrying out necessary corrections and inclusion as stated above.

05.04.2023

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