

THE HONOURABLE SRI JUSTICE K.SARATH

WRIT PETITION No. 26367 of 2021

ORDER:

This Writ petition is filed under Article 226 of Constitution of India, seeking the following relief:

“... to issue a Writ or order or direction more particularly one in the nature of Mandamus declaring the impugned action of the respondent No.2 in not releasing the retiral benefits of the petitioner though he retired from service on 30.11.2012 as illegal, arbitrary, unjust, unreasonable, contrary to Judicial Proceedings, and unconstitutional and violation of Article 14 of the Constitution of India and consequently direct the respondents to release all the retirement benefits of the petitioner such a Pension, arrears of pension, gratuity, Provident Fund etc., together with interest @ 18% per annum immediately in the interest of justice...”

2. Heard Sri D.Rama Krishna, Learned Counsel appearing for the petitioner and the Learned Assistant Government Pleaders appearing for the respondents.

::2::

3. The Learned Counsel for the petitioner submits that the petitioner was retired from service on 30.11.2012 as Principal of A.P. Residential School (EM) for Minorities (Girls).

4. The learned Counsel for the petitioner further submits that while the petitioner was in service, ACB raid was conducted against the petitioner and a crime was registered vide Crime No.2/ACB-HR/2010 dated 08.01.2010 under Sections under Sections 7 and 13 (1) (d) read with Section 13 (2) of P.C. Act, 1988 and after the trap the petitioner was arrested and sent him to judicial custody, thereafter the petitioner was placed under suspicion. The suspension of the petitioner was reviewed and he was reinstated into service on 25.08.2011 and the petitioner was retired from service on 30.11.2012 on attaining the age of the

::3::

superannuation. The learned Counsel for the petitioner further submits that the petitioner was acquitted in the Criminal Case vide CC No.6/2011 on the file of 1st Additional Special Judge for SPE and ACB cases cum-V Additional Chief Judge, City Civil Court, Hyderabad vide judgment dated 17.04.2013. Against the judgment of acquittal the ACB preferred an appeal and the same is pending before this Court vide Criminal Appeal No.951/2013. The action of the respondent in not releasing the retirement benefits to the petitioner, on the ground that the Criminal Appeal filed by the ACB is pending, is highly arbitrary and unreasonable and the respondents have no power or authority to withhold the pension.

5. The learned Counsel for the petitioner further submits that when the petitioner was acquitted by the

::4::

Court in the criminal case, it must amount to the conclusion of the judicial proceedings at the first instance and appeals filed against the acquittal orders cannot be treated as continuation of criminal proceedings as held by this court in similar cases and requested the Court to allow the writ petition.

6. In spite of specific direction given by this Court on 22.12.2022 to file counter on or before 14.02.2023, the respondents did not chose to file counter till this date.

7. After hearing both sides and on perusal of the material on record this Court is of the considered view that the petitioner was acquitted in the Criminal proceedings initiated against him in CC No. 6/2011 on the file of the 1st Additional Special Judge for SPE and ACB case, City Civil Court, Hyderabad, therefore, the petitioner is entitled for his terminal benefits as held by

::5::

this Court in ***the Chief Commissioner of Land Administration, A.P. Vs. R.R.R.Rao others***¹ and also in ***B.V.Koteswar Rao Vs. State of Telangana and others***².

8. Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for releasing of pensionary and other retirement benefits within eight (8) weeks from the date of receipt of copy of this Order.

9. Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

JUSTICE K.SARATH

Date: 22.02.2023

trr

¹ 2010 (2) ALD 773 (DB)

² (2018) 3 ALD 368