APHC010586232026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3460]
(Special Original Jurisdiction)

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 32112/2026

Between:

1. DR. CHUNDURU PRASANNA KUMAR,, S/O HARI NARAYANA, AGED 65 YEARS, OCC CIVIL SURGEON SPECIALIST (RETIRED), R/O FLAT NO.503, BLACK-A, RUSHIVALLEY HOMES, SRINIVASARAO PETA, OPP TOBACCO BOARD, GUNTUR, GUNTUR DISTRICT - 522004.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, MEDICAL, HEALTH AND FAMILY WELFARE (VC.1) DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT- 522238.

2. THE DIRECTOR OF SECONDARY HEALTH SERVICES, H.NO.77-2/G, LAKSHMI ELITE BUILDING, PATHURU ROAD, TADEPALLI, GUNTUR DISTRAICT- 522501.

3. THE ACCOUNTANT GENERAL AUDIT, REPRESENTED BY THE AG AUDIT, 0/0 THE PRINCIPAL ACCOUNTANT GENERAL (A AND E) ANDHRA PRADESH, 8TH FLOOR, STALIN CENTRAL, GOVERNOR PET, VIJAYAWADA 520002.

...RESPONDENT(S):

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 toissue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not releasing the pensionary benefits to the petitioner i.e. Encashment of Earned Leave and Gratuity and Commutation of Pension as provided in terms of G.O.Rt.No.1097, Finance and Planning (FE.Pen.1) Dept., dated 22.06.2000 is illegal, arbitrary, unjust and violation of Principles of natural justice and contrary to G.O.Ms.No.1097, Finance and Planning (FE.Pen.1) Dept., dated 22.06.2000 and violation of Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondents to pay the Encashment of Earned Leave and Gratuity and Commutation of Pension as provided in terms of G.O.Rt.No.1097 Finance and Planning (FE.Pen.1) Department dated 22.06.2000 to the petitioner

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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 direct the respondent pay the Encashment of Earned Leave and Gratuity and Commutation of Pension as provided in terms of G.O.Rt.No.1097 Finance and Planning (FE.Pen.1) Department dated 22.06.2000 to the petitioner pending disposal of the writ petition

Counsel for the Petitioner:

1. G SRINIVASULA REDDY

Counsel for the Respondent(S):

1. GP FOR SERVICES I

The Court made the following:

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

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ORDER:

1. The present Writ Petition is filed questioning the action of the Respondent-Authorities in not releasing the pensionary benefits of the Petitioner, i.e., encashment of earned leave, gratuity, and commutation of pension, as provided under G.O.Rt.No.1097, Finance and Planning (FE.Pen.I) Department, dated 22.06.2000, as illegal and arbitrary.

2. The facts are as follows:-

The Petitioner had retired from service on attaining the age of superannuation as a Civil Surgeon Specialist. While the Petitioner was in service, an ACB trap was laid on 20.11.2019 for demanding and accepting a bribe amount. While so, after due investigation, a charge sheet was filed, and the case was numbered as C.C. No.16 of 2023 on the file of the Special Judge for SPE & ACB Cases, Vijayawada.

3. The present grievance of the Petitioner is that on account of pendency of said criminal case, 80% of retirement gratuity, and earned leave encashment amount as provided under

G.O.Rt.No.1097, Finance and Planning (FE.Pen.I) Dept., dated 22.06.2000 was not being paid to the Petitioner. Hence, the present Writ Petition is filed.

4. The learned Assistant Government Pleader appearing for the Respondents submits that the issue is covered by the Judgment dated 16.02.2022 rendered by the Division Bench of this Court in W.A.No.196 of 2022, wherein it was held that the case of the Petitioner can be considered for encashment of earned leave and not for gratuity.

5. Heard the respective counsels.

6. As rightly contended by the learned Assistant Government Pleader, the Division Bench of this Court in W.A.No.196 of 2022 had considered as to whether the retirement gratuity can be extended in cases, where individuals are facing criminal cases. After due consideration, it was held that gratuity cannot be granted. The relevant portion of the Judgment is extracted below;

> *"9. A joint reading of clause (c) of sub-rule (1) of Section 52 of the Rules, 1980 along with G.O.Rt.No.1097 dated 22.06.2000 would make it clear that the proviso appended to clause (c) concerns a situation where the retired Government Servant is undergoing departmental proceedings. The proviso does not deal with a situation where the retired Government Servant is facing judicial proceedings. While the first part of clause(c) of sub-rule (1) of Rule 52 of the Rules, 1980 provides*

that no gratuity shall be paid until the conclusion of departmental or judicial proceedings or issue of the final orders, the proviso enables the Government to release 80% of the eligible gratuity in appropriate cases, where the retired Government Servant is facing the disciplinary proceedings. However, the said enabling proviso has not dealt with a situation where the retired Government Servant is facing judicial proceedings.

10. The case decided by the Division Bench of common High Court in W.P. No.30443 of 2016 was dealing with the prayer of a retired Government Servant for release of leave encashment. It was not dealing with the prayer for release of 80% of gratuity. The judgment in the matter of R. Veerabhadram vs. Government of A.P. reported in (1999) 9 Supreme Court Cases 43 referred by the learned single Judge clearly holds that by virtue of Rule 52(c) of the Rules, 1980, there is an express power empowering the Government to withhold gratuity during the pendency of any judicial proceedings against the employee. Even though the said judgment was rendered before issuance of G.O.Rt.No.1097, the fact remains that there is no amendment in the main part of clause (c) of sub-rule (1) of Rule 52 of the Rules, 1980. As we have mentioned earlier, the proviso only concerns a situation where the employee is facing disciplinary proceedings and not when he is facing judicial proceedings. In our considered view, the judgment in the case of R. Veerabhadram (supra) would still hold in a case where the employee is facing judicial proceedings.

11. Learned counsel for the writ petitioner submits that the petitioner is entitled for leave encashment. To this extent, learned State counsel would not object to the prayer because, according to him, the judgment rendered by the Division Bench in W.P. No.30443 of 2016 deals with encashment of leave and moreover, clause(c) of sub-rule(1) of Rule 52 of the Rules, 1980 deals with gratuity and not with leave encashment."

7. In view of the same, the present Writ Petition is disposed of, with the following directions:-

i) The Petitioner shall be entitled only to leave encashment and the Petitioner is not entitled for gratuity pending criminal

case and the same shall be subject to the outcome of C.C.No.16 of 2023 on the file of the Special Judge for SPE & ACB cases, Vijayawada.

ii) The Respondents shall disburse the leave encashment amount to the Petitioner within a period of three (03) months from the date of receipt of a copy of this order;

iii) No order as to costs.

8. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE NYAPATHY VIJAY

Date:04.11.2026
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THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

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Dated:04.11.2026

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