
(2023) 03 TEL CK 0075
In the Telangana High Court
Case No : Writ Petition No. 4703 Of 2020

Av.S.Prasad

APPELLANT

Vs

State Of Telangana And 2 Others

RESPONDENT

Date of Decision : 24-03-2023

Acts Referred:

Constitution Of India, 1950 — Article 226, 300A

Citation : (2023) 03 TEL CK 0075

Hon'ble Judges : E.V.Venugopal, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. The present Writ Petition is filed under Article 226 of Constitution of India for the following relief/s:-

"... to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of respondents to call for records declaring the impugned orders Memo No.12886/Ex.I(1)/2018, dated 10.06.2019 of the 1st respondent and as illegal, arbitrary, erroneous and contrary to the records, unjust and violation of principles of natural justice and contrary to Rule FR 54-A(3) of the APFRSR Rules apart from violation of Articles 300-A of the Constitution of India and to quash or set-aside the same and consequently direct the respondents to regularizing my suspension period from 25.09.2008 to 24.11.2010 as on duty with all consequential benefits, i.e., arrears of salary and increments applying principle of compulsory wait and to grant such other relief or reliefs ..."

2. Heard learned counsel for the petitioner and learned Assistant Government Pleader appearing for the respondents.

3. It is the case of the petitioner that the ACB authorities registered a case against him for the offences under Prevention of Corruption Act, 1988. The petitioner was suspended and later reinstated into service on 25.11.2011. The

petitioner was acquitted by the learned Principle Special Judge SPE & ACB Court, Hyderabad in C.C.No.7 of 2010 vide judgment dated 08.12.2014. The ACB authorities preferred an Appeal vide Crl.A.No.730 of 2016 before this Court and the same is pending. The petitioner made a representation to the Government for regularization of suspension period but the Government rejected the same and observed that as per FR 54-A (3), "back wages to be suspended/dismissed employee cannot be paid as a matter of course in cases where the employee has been acquitted by the Courts on benefit of doubt". But as per Rule 54-B(1) when a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement while under suspension; the authority competent to order reinstatement shall consider and make a specific order.

4. The petitioner made several representations dated 17.01.2018, 18.04.2018, 21.08.2018 and 11.09.2018 to respondent No.1. But in vain. The petitioner filed C.C.No.2790 of 2018 on 04.10.2018. After receiving notices in Contempt Case, respondent No.1 released provisional pension as per G.O.Rt.No.150, dated 29.03.2018 but denied full pension to the petitioner. Hence, the present Writ Petition.

5. Counter affidavit filed by the respondents.

6. Learned Assistant Government Pleader submits that, challenging the acquittal of the petitioner, an Appeal was preferred by the ACB and the same is pending adjudication before this Court. It is further submitted that in compliance of the interim order dated 08.12.2016 in W.P.No.42496 of 2016, respondent No.1 vide Memo dated 19.09.2017 rejected the request of the petitioner for regularization of the suspension period from 25.09.2008 to 24.11.2010. It is submitted that on attaining the age of superannuation, the petitioner retired from service on 31.08.2017. The petitioner filed W.P.No.8827 of 2018 seeking release of full pension and other benefits and by Order dated 02.04.2018 in W.P.No.8827 of 2018 and as per Orders in C.C.No.2790 of 2018 dated 04.10.2018, Government vide G.O.Rt.No.44, Rev (Vig.II) Department., dated 07.02.2019 released full pension and other benefits subject to final outcome of the Criminal Appeal No.730 of 2016 pending before this Court.

7. It is further contended that the petitioner filed W.P.No.22325 of 2018 seeking a direction to the respondents to consider his representation dated 28.05.2018 in which he sought regularization of suspension period from 25.09.2008 to 24.11.2010 and notional promotion on par with his junior in the category of Prohibition & Excise Inspector from 06.12.2006. In compliance of the orders of this Court, respondent No.1 vide Memo dated 10.06.2019 examined and rejected the request of the petitioner holding that the rejection orders vide Memo dated 19.09.2017 stands good. It is further submitted that the petitioner has been sanctioned full pension and other benefits vide orders of the 1st respondent in G.O.Rt.No.44, Rev.(Vig.II) Department., dated 07.02.2019 subject to final outcome of the Criminal Appeal No.730 of 2016 pending before this Court.

8. In support of his contention, learned counsel for the petitioner relied upon the decisions of this Court in "Government of Andhra Pradesh and others Vs. S. Nageswara Rao and others 2012 (1) ALD 26 (DB)" and "State of Andhra Pradesh and another Vs. Krishna Murthy 2018 (4) ALD 477 (DB)"

9. The whole issue germinates from the fact that the writ petitioner is involved in a criminal case and since the criminal case is pending and without adjudication of the said criminal case passing on the benefits as sought for by the writ petitioner at this juncture will not secure the interests of the State. Unless and until the criminal case is disposed of in favour of the petitioner, regularizing the suspension period of the writ petitioner from 25.09.2008 to 24.11.2010 as on duty with all consequential benefits at this juncture is devoid of merits.

10. Therefore, the respondents are directed to consider the case of the petitioner basing on the decision rendered in the criminal appeal.

11. With the above direction, the Writ Petition is disposed of. No costs. Miscellaneous Petitions, pending if any, shall stand closed.