

(2006) 08 AP CK 0076

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5537 of 2006

Chief Executive Officer, Zilla Parishad

APPELLANT

Vs

Smt. B. Varalakshmi and Others

RESPONDENT

Date of Decision : 23-08-2006

Acts Referred:

Andhra Pradesh Revised Pension Rules, 1980 — Rule 46
Constitution of India, 1950 — Article 226

Citation : (2006) 5 ALT 716

Hon'ble Judges : Ramesh Ranganathan, J;B. Prakash Rao, J

Bench : Division Bench

Advocate : Makkapati Prabhakara Rao, S.C, for the Appellant; D.V. Madhusudhan and G.P. for Services II for Respondent Nos. 2 to 5, for the Respondent

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, J.—Aggrieved by the order of the Tribunal in O.A. No. 4459 of 2005 dated 24-10-2004, as being contrary to the provisions of Rule 46 of A.P. Revised Pension Rules, 1980, and seeking a consequential declaration that the 1st respondent was entitled only for interest on delayed payment of gratuity as contemplated under the Rules, the Chief Executive Officer, Zilla Parishad, is before this Court.

2. Facts, to the extent, necessary, are that the respondent herein retired as a Village Development Officer on 30-6-2000 on attaining the age of superannuation. She submitted her pension papers on 27-06-2000 for onward transmission to the Accountant General. Earlier, while she was in service, the District Collector issued a charge memo in April 1998 making certain allegations against her. The respondent-applicant submitted her written statement, dated 12-5-1998, denying the charges. A second memo was issued on 29-12-1999 to which the respondent-applicant submitted her explanation on 21 -09-2000. The respondent-applicant approached the Hon"ble Lokayukta questioning the action

of the petitioner herein in not even sanctioning her provisional pension. After the case was taken up by the Hon'ble Lokayukta in file No. 1445 of 2000 dated 24-11-2000, the 5th respondent sanctioned provisional pension, at the rate of 75% of the admissible pension, by its order dated 23-03-2001 nearly one and half years after her retirement from service. On the ground that the disciplinary proceedings were not disposed of, the respondent again approached the Upa-Lokayukta and the Upa-Lokayukta, by orders dated 16-09-2002, 24-10-2002 and 26-11-2002, directed the 4th respondent to dispose of the disciplinary proceedings as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of the order. The petitioner dropped the disciplinary proceedings against the respondent vide orders dated 14-11-2002. The respondent was granted pension, by order dated 13-12-2002, and gratuity vide proceedings dated 09-04-2003. She was also directed to submit fresh commutation proposals. The respondent submitted an application on 25-04-2003 for commutation of her pension at the rate of 40% as the departmental proceedings had been dropped. The 5th respondent granted Rs. 2,11,896/- towards commuted value of her pension on Rs. 1,800/- @ 117-72 through proceedings dated 20-8-2003. The respondent got issued a legal notice dated 30-09-2003 requesting for payment of penal interest at the rate of 12% p.a., and Rs. 14,040/- being the differential amount of her commuted pension, since the departmental enquiry against her had been dropped as on 30-06-2000. The Tribunal took note of the fact that it was only after she had moved the institution of Lokayukta, by filing Complaint No. 144 of 2000, that the petitioner had released 75% of the provisional pension. The Tribunal also took note of the fact that the Upa-Lokayukta, by a series of orders, had directed the authorities to conclude the enquiry as early as possible preferably within a period of three months, despite which the petitioner had delayed the matter without completing the disciplinary proceedings. Further, the petitioners had chosen to drop the disciplinary proceedings by order dated 14-11 -2002. The Tribunal also took note of the fact that the enquiry officer had himself opined that the enquiry could not be conducted for want of material, that he had taken more than one year to complete the enquiry and to submit his report, that no material was placed before it evidencing the fact that the applicant had contributed to the delay in prolonging the disciplinary proceedings, and that the respondent had, immediately after the charge memo had been issued, submitted her explanation within the stipulated time. The Tribunal held that the petitioner had taken an unduly long time to enquire into the allegations. Having regard to all these facts the Tribunal held that the respondent-applicant's pensionary benefits, which were due and payable at the time of her superannuation on 30-06-2000, had been unnecessary delayed for more than two years, on account of sheer negligence and callousness on the part of the petitioner and hence it was a fit case for a warding interest to the respondent on the delayed payment of pensionary benefits. The OA was disposed of with a direction to the petitioner herein to arrange for payment of interest at the rate of 12% p.a. on the delayed portion of the pension by duly subtracting payments made by way of anticipatory

pension and other benefits. The petitioner herein was further directed to release Rs. 14,040/- being the differential amount of commutation pension. Aggrieved thereby, the present writ petition.

3. Sri M. Prabhakar Rao, learned Counsel for the petitioner, would refer to the circular memo of the Government dated 21-04-1999 in support of his submission that the rate of interest which can be granted for delayed payment of retirement gratuity is 7% p.a. for the period beyond three months and upto one year and 10% p.a. beyond one year after the gratuity becomes due and payable till the end of the month preceding the month in which payment is actually made. Learned Counsel would further submit that Rule 46 of the A.P. Revised Pension Rules, 1980 provides that interest is payable on delayed payment of gratuity only, and does not provide for payment of interest on delayed payment of pension. Learned Counsel would also refer to the amendment of the said circular memo, vide proceedings dated 11-08-2005, wherein the rate of interest has been reduced to 4.5% for the period beyond the first three months and 5% thereafter, as against the earlier 7% and 10%.

4. Sri D. Madhusudan, learned Counsel for the respondent-applicant, would submit that despite the fact that the respondent-applicant had retired from service as early as on 30-6-2000, the petitioner herein had deliberately delayed payment of terminal benefits and that the respondent is not responsible for the enquiry proceedings being unnecessarily dragged on. Learned Counsel places reliance on the judgments of the Apex Court in *State of Kerala and Others Vs. M. Padmanabhan Nair*, *Dr. Uma Agrawal Vs. State of U.P. and Another*, *AIR 2000 SC 3513a* and the Division Bench of this Court in *Govt. of A.P., Energy, Forests, Science and Technology Dept. and Others Vs. C. Purushotham and Another*.

5. In *M. Padmanabhan Nair AIR 1985 SC 356*, the Apex Court confirmed the rate of 6% interest p.a, granted by the Kerala High Court. In *Dr. Uma Agrawal Vs. State of U.P. and Another*, the Apex Court quantified the interest payable, for the delayed payment of terminal benefits, as Rs. 1,00,000/-. In *AIR 2000 SC 3513a* the Apex Court directed the respondents to pay the appellant interest at the rate of 18% p.a. and the Division Bench of this Court in *C. Purushotham (4 supra)* directed payment of interest on terminal benefits at 12% p.a.

6. The aforesaid circular instructions issued by the Government do not have statutory sanction. It cannot be lost sight of that this Court, while exercising Certiorari jurisdiction under Article 226 of the Constitution of India, does not sit in appeal over the decisions of the Tribunal. It is only if the discretion exercised by the Tribunal is so unreasonable, as to necessitate this Court's interference, would this Court be justified in exercising its certiorari jurisdiction under Article 226 of the Constitution of India. The order of the Tribunal, directing payment of interest at 12% p.a. is a well considered and reasoned order, taking into account the inordinate delay on the part of the petitioner herein in completing the disciplinary proceedings and their failure to pay the terminal benefits, legitimately due to the respondent. We see no reason to interfere with the order

of the Tribunal or the discretion exercised in granting the respondent-applicant interest at 12% p.a. for the delayed payment of terminal benefits.

7. The Writ Petition fails and is accordingly dismissed. However, in the circumstances, without costs.