
(1997) 09 AP CK 0117

In the Andhra Pradesh High Court

Case No : Writ Petition No. 23598 of 1996

M. Janakiramaiah

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 30-09-1997

Acts Referred:

Andhra Pradesh Revised Pension Rules, 1980 — Rule 9
Civil Procedure Code, 1908 (CPC) — Section 60
Civil Services Regulations — Regulation 351
Constitution of India, 1950 — Article 19(5), 199(1), 226, 31(1)
Pensions Act, 1871 — Section 11

Citation : (1998) 2 ALD 319

Hon'ble Judges : V. Bhaskara Rao, J;Lingaraja Rath, J

Bench : Division Bench

Advocate : Mr. M. Panduranga Rao, for the Appellant; Government Pleaders for Transport and for R and B., for the Respondent

Judgement

V. BHASKARA RAO, J

1. An octogenerian pensioner has knocked at the door of the High Court under Article 226 of the Constitution of India seeking directions to the State of Andhra Pradesh and the Engineer-in-Chief (Administration Wing) R&B Department to settle his pension and gratuity after refixing his pay in the promotional post pursuant to the judgment of Andhra Pradesh Administrative Tribunal and to pay the arrears with interest.

2. The petitioner was first appointed in the erstwhile State of Hyderabad as III Grade Clerk on 28.7.1938 and promoted as a Divisional Accountant on 31.10.1956. The post of Divisional Accountant was, however, abolished on 1.5.1957 and accordingly the petitioner was reverted. Though he was entitled for promotion as Superintendent in the year 1958, he was denied the same. While so he was transferred to Delhi and posted as U.D. Accountant in the A.P. Guest House on 3.6.1966 and on attaining superannuation on 7.3.1970 he retired from service.

3. The grievance of the petitioner is that he was entitled for promotion as Superintendent in the year 1958, but the same was denied to him. He further stated that the Chief Engineer, R&B., who is the Head of the Department wrote to the Government of Andhra Pradesh on 6.2.1970 to promote him as Superintendent with retrospective effect and that the High Power Committee appointed to look into the grievances of Telangana Employees has also held that he was entitled to promotion. In that connection the petitioner filed a representation in Andhra Pradesh Administrative Tribunal seeking retrospective promotion. Thereupon the Tribunal held that he was entitled for promotion with effect from 3-1-1962. His further grievance is that he was sanctioned an anticipatory pension of Rs.100/- per month after 3 years of his retirement and no gratuity was released to him.

4. Respondent No.2 resisted the petition denying the material averments of the petitioner's affidavit. According to respondent No.2, the petitioner had defalcated Government funds to the tune of Rs. 27,396.20ps and pending a decision in the above defalcation case, provisional pension of Rs. 100/- per month was released. It is also stated by respondent No.2 that the entire death-cum-retirement gratuity, for short D.C.R.G., was not released as it is liable to be set off against the loss to the Government. It is also stated that an amount of Rs. 57,506-35 ps was due from the petitioner towards the arrears of rent for the quarter occupied by him at New Delhi as per the Judgment of High Court of Delhi. It is then asserted by respondent No.2 that the petitioner failed to submit the pension papers with correct particulars and in accordance with rules and hence he has been sanctioned provisional pension or anticipatory pension as per the advice of the Accountant General and that the same has been revised to Rs.370/- per month with effect from 1-12-1989 as per G.O. Ms. No.52, TR&B (S.II) Department-E2, dated 7-3-1992.

5. Adverting to his promotion, it is stated that he has been given notional promotion with effect from 3.1.1962. vide proceedings No.RC. General. SR IV/45638/70, dated 10-11-1971 of Chief Engineer, P.W.D. General, A.P., Hyderabad.

6. It is also averred in the counter affidavit that as per Audit Report a sum of Rs. 3,143.20 ps besides the defalcated amount of Rs. 27,396.52 ps is also to be recovered from the petitioner and the total sum works out to Rs. 88,046.08 ps. It is thus explained that the delay in this case has occasioned on account of various Court cases filed by him either in the High Court of Delhi or the Supreme Court.

7. The petitioner filed a reply refuting the allegation that he defalcated an amount of Rs.27396.20 ps. He also denied that an amount of Rs. 57,506.35 ps was due from him towards the rent of the quarters. According to him the respondents cannot withhold his pension on those grounds as no action has been taken either under F.R.26 or Rule 9 of A.P. Revised Pension Rules. Reiterating that he was entitled for promotion as Superintendent with retrospective effect

and his pay has to be refixed in that category, he claimed that he is entitled for more pension than what is sought to be fixed. He also denied the allegation that he failed to submit the papers with correct particulars. He once again asserted that no charge memo has been given to him at any time prior to his retirement or thereafter and that the Government cannot initiate any departmental proceedings 4 years after the alleged event.

8. The following points emerge for consideration in view of the above averments of both sides:

1. What is the pay of the petitioner before his notional promotion as Superintendent as on 1-11-1961 and what is his pay under the Revised Pay Scales of 1961 ?
2. To what pay the petitioner became entitled as Superintendent and thereafter what is the effect of G.O.Ms. No. 173, Finance, dated 13-6-1969 (Revised Pay Scales of 1969)?
3. Whether the petitioner is entitled for arrears of pay consequent upon revision of pay and notional promotion as Superintendent and if so what is the amount?"
4. Whether any amounts are due to the Government and if so, the same is liable to be recovered from the arrears of pay?
5. Whether the terminal benefits can be proceeded against for the purpose of recovery of the aforesaid dues if any and to what pension is the petitioner entitled?

Point No. 1 :

The petitioner was drawing his pay in the pay scale of Rs. 90-4-110-5-150-7 1/2-180 as on 31-10-1961. A calculation memo is filed during the course of the hearing and it indicates that his basic pay as on 31-10-1961 was Rs.172.50 ps. The above figure appears to be based on the entries in the Service Register of the incumbent. The scale of pay as per the Revised Pay Scales of 1961 is Rs. 125-5-155-7 1/2-200. The pay of the petitioner is sought to be refixed in the above scale as under:

(i) Existing Pay

17250

(ii) Deduction as per para 3(a) of the G.O.Ms. No. 426, dated 15-11-1961. (-)
20.00

152.50

(iii) Add D.A.

43.00

195.50

Stage in the pay scale of 125-5-155-7-1/2-200

200.00

Pay to be fixed @ Rs.200/- p.m. on 1-11-1961 as II Grade clerk (UDC)

9. The petitioner has been given an opportunity to file a reply to the calculation memo filed by respondents. The petitioner came forward with his own statement of calculations stating that his pay is to be fixed in the revised pay scales of 1959 as per G.O.Ms. No. 1044, dated 24.6.1959, whereas he has been unjustly reverted to II Grade Clerk. According to him he would be entitled to three weightages at the rate of Rs.7.50 ps as per para 5(b) of G.O.Ms. No. 1044, dated 24.6.1959 and thus, his basic pay would work out to Rs. 195/- (Rs. 172.50 + 22.50 ps). It is then shown that Rs. 180/- being the maximum in the time scale of II Grade Clerk, Rs.15/- is to be treated as Personal Pay and pay has to be revised in the time scale of Rs- 125-5-155-7 1/2-200 in the Revised Pay Scales of 1961. Then he applied the formula prescribed in para 3(a) of G.O.Ms. No.426, dated 15.11.1961 viz., deducting Rs.20/- and adding D.A. of Rs 437- to Rs. 195/-, which is worked out to Rs. 218/-. Since Rs. 200/- is the maximum in the above time scale, the petitioner wants that the amount over and above Rs.200/- to be treated as Personal Pay to be adjusted in future increments. It is evident from the statement of calculations filed by the petitioner that he wants to seek the benefit of G.O.Ms. No. 1044, dated 24.6.1959.

10. We carefully perused the pleadings. It is noteworthy that the petitioner filed a reply affidavit on 17.7.1997 setting up this claim and thereafter the respondents were given opportunity to file additional counter affidavit and in fact two such affidavits have been filed by the concerned Superintending Engineer, R&B. We have adverted our attention to this specific claim of the petitioner. To see whether he has been given the benefit of revised pay scales of 1959 and to see whether there is any specific reason or justification to deny such a benefit. We are unable to find any reason, but on the contrary it is admitted that the averments of para 7 of the petitioner's affidavit are correct. The relevant para reads thus-

" It is submitted that the allegations in para 7 of Affidavit are correct. He was temporarily promoted as Divisional Accountant w.e.f 28.6.1959 and was reverted on 23.9.1959. He was granted ad hoc increment for one year from 4.6.1959 to 3.6.1960 at Rs. 6/- p.m. GAD in No. As (S1) 59-2 dated 4-6-59 (As per the Sr. Vol. II of (29) and in the pay scale of Rs. 90-4-110-5-160-7 1/2-180 his increment on 17.11.1961 was sanctioned. In the revised pay scales of 1959 introduced in the G.O. Ms. No. 1044 dated 24-6-1959 the pay scales of Head Clerk and UDC was Rs. 90-4-110-5-150-7 1/2-180. The Petitioner was drawing the pay in the same pay scale as on 17-11-1961 as per the Sr. Vol. III on his option to the Revised Pay Scales of 1961 his pay was fixed at Rs. 200/- PP Rs. 3/- w.e.f. 8.2.1962 in the pay scale of Rs. 125-5-155-7 1/2-200."

11, Evidently the petitioner has not been given the benefit of revised pay scales

of 1959 and hence we hold that his pay is to be fixed in terms of G.O.Ms. No.1044, Finance, dated 24.6.1959 as under:

Admitted basic pay Rs. 172.50 3 increments @Rs.7.50ps. Rs.22.50 as per para 5(b) of the said G.O., viz., "three increments for service of 10 years or more in his present grade shall be added thereto." Total Rs. 195.00 (180 + Rs.15/-P.P) Fixation of pay in revised pay scales of 1961 in the lime scale of 125-5-155-7-1/2-200:

1. Existing pay Rs. 180.00

P.P Rs. 15.00

2. Deduction as per Para 3(a) of G.O.Ms. No.426, dated 15-11-1961 Rs. 20.00

3. Add D.A. Rs. 43.00

Resultant Rs. 218.00

Since Rs. 200/- is the maximum of the above time scale, the pay is to be fixed as Rs.200/-+ Rs. 18/- Personal Pay. Point No.1 is answered accordingly.

Point No. 2:

12. It is not in dispute that the petitioner approached the Andhra Pradesh Administrative Tribunal seeking a direction that he may be promoted as Superintendent with effect from 3-1-1962 and such a direction was issued. Hence the petitioner is entitled for revision of his pay in the promotion post of Superintendent with effect from 3-1-1962. The lime scale of Superintendent under revised Pay Scales of 1961 is Rs. 180-7 1/2-210-10-280-15-400. In view of our finding on point No.1, his basic pay before his promotion was Rs. 200/- + Rs. 18/- Personal Pay, He has to be fitted into the above scale at the level of Rs. 220/-as per F.R.22 (a) (i). Adding seven annual increments of Rs. 10/-, his pay as on 3-1-1969 becomes Rs. 290/-. At this stage the annual increment is Rs. 15/-. Hence the pay is raised to Rs.305/- as on 3-1-1970. There was yet another revision in the pay scales in 1969, under which the time scale of the Superintendent is revised to Rs. 200-12-320-16-400. The stage at which the petitioner is to be fitted in the above time scale is Rs. 308/-. He is entitled for two weightages as on 19-3-1969, viz., Rs. 12/- in the first instance which takes his pay to Rs. 320/- and then the increment of Rs.16/- which takes his pay to Rs. 336/-. The petitioner has admittedly retired from service on 7-3-1970 on attaining the age of superannuation.

13. We perused the calculation memo filed by the respondents whereunder the petitioner's pay is sought to be fixed at Rs. 284/- by refixing his pay under Revised Pay Scales of 1961 in the first instance and under Revised pay Scales of 1969 thereafter, but we are unable to accept the same for the simple reason that the benefit of Revised Pay Scales of 1959 was not taken into consideration and thus it has been fixed at a lower level at every stage and in our view that approach is incorrect, The result is that we find substance in the claim of the

petitioner and accordingly we hold that he is entitled for a pay of Rs.336/- as on the date of his retirement. Point No.2 is answered accordingly.

Point No. 3:

14. It is needless to say that the petitioner would be entitled for arrears of pay and allowances in view of fixation of pay in the Revised Pay Scales. Although the respondents filed a statement showing the difference of pay and allowances payable to the petitioner, it is based on incorrect fixation of pay. We have adverted to this aspect under points 1 and 2 and we have held above that the basic pay of the petitioner as on the date of his retirement is Rs.336/-. We have also held above that his pay ought to have been fixed at Rs. 180/- + Rs.15/- P.P. under G.O.Ms. No. 1044, Finance, dated 24.6.1959 and thereafter it is fit to be revised under Revised Pay Scales of 1961 and fixed at Rs.200/- + Rs. 18/- P.P. and that his pay as Superintendent in the Revised Pay Scales of 1961 would have been Rs. 220/- as on 3.1.1962 and the same would have been increased by adding increments at the rate of Rs. 10/- till 1969 and the last increment which he would have earned before retirement would have been Rs. 15/-. Keeping these findings in view, the arrears have to be calculated afresh. We do not embark upon the process of calculation of arrears as it involves a cumbersome mathematical process, we direct the respondents to calculate the arrears as indicated above and to furnish a copy of the same to the petitioner and to give him an opportunity before finalising and claiming the same. The petitioner in turn may avail the opportunity and to submit his own claim to the concerned authority who will consider the same and arrive at a correct figure. Point No. 3 is answered accordingly.

Point Nos. 4 and 5 :

15. The case of the respondents is that the petitioner had defalcated an amount of Rs. 27,396.20 ps as per audit report dated 17/11/1970 and Rs. 3,143.53 ps as per Last Pay Certificate. The total defalcated amount accordingly works out to Rs.30,539.73 ps. It is also their case that he had over-stayed in the Government quarters at New Delhi and became liable to pay a rent of Rs. 6,070/ from 1-5-1971 to 31-7-1973 and for the future period from 1-8-1973 to 11-5-1988, the date of eviction to Rs. 51,436.35 ps as per the decree of the High Court of Delhi in a Second Appeal. Thus the total sum due from the petitioner is shown as Rs. 88,046.08 ps. It has been consistently averred in the counter affidavits filed by the respondents that the petitioner failed to write the cash book for the period from 1-4-1968 to 9-7-1970 while he was Accountant and that the misappropriation had taken place during his tenure and he is answerable for the same. It is also on record that though he was retired from service with effect from 7-3-1970, he was re-employed for a period of two months from 1-8-1970 to 30-9-1970 for updating the records i.e., cash book etc. but he has not completed the entries. The audit party in its report dated 17-11-1970 appears to have pointed out various defects including the defalcation of Rs. 27,396.20 ps. Several memos are said to have been issued to the petitioner asking him to remit the

above amounts, but he appears to have taken a stand that one Lokapally, the then receptionist was responsible for the defalcation. A final show cause notice came to be issued to the petitioner under Memo No. 2901/S2-2/77-1, dated 6-5-1978 making specific allegation of fraud or negligence on the part of the petitioner and then G.O. Ms. No. 470, T/R&B(SER2) Department, dated 16-5-1979 was issued holding the petitioner to be responsible for the defalcation of the aforesaid Rs. 27,396.20 ps and accordingly a permanent cut of Rs.5/-in the pension of the petitioner was imposed and the entire death-cum-retirement gratuity of Rs.5,250/- was directed to be withheld towards the loss caused to the Government.

16. Thereafter the Government issued G.O.Ms. No.52 Transport, Roads and Buildings/82 Department, dated 7-3-1992 allowing a minimum pension of Rs.370/- with effect from 1-12-1989 without imposing a cut of Rs. 5/- permanent and directing adjustment of gratuity amount of Rs. 5,250/- towards the loss caused to the Government and further directing that the outstanding loss if any shall be recovered (1) from Dearness Allowance arrears without notice and (ii) the balance, if any, under Revenue Recovery Act by resort to civil suit.

17. The petitioner has assailed both these G.Os. On one hand he has denied that he has defalcated any amount and on the other he asserted that no disciplinary proceedings have been initiated against him either before or after his retirement and that the proceedings under Rule 9 of A.P. Revised Pension Rules, 1980 could not have been initiated after 4 years of the event and since he retired from service more than 25 years, ago, no such proceedings can be initiated. We have heard at length both the learned Counsel.

18. It is true that the version of the respondents that he defalcated an amount of Rs.27,396.20 ps remained to be a mere allegation for the simple reason that neither any proceedings have been initiated under Rule 9 of A.P. Revised Pension Rules, 1980 nor any enquiry is held by framing a charge against the petitioner to that effect. It is another thing that an audit party has gone into this allegation and submitted a report, but in our view that cannot be a substitute for an enquiry contemplated by Rule 9. G.O.Ms. No. 470, T, R&B dated 16-5-1979 shows that a final show cause notice was issued to the petitioner on 6-5-1978 and he submitted a reply on 28-6-1978. The above show cause notice was based on the report of the audit party and evidently it is after nearly 8 years of his retirement, in any case it is nobody's case that any proceedings were initiated under Rule 9 and hence the action both under G.O. Ms. Nos. 470, dated 16-5-1979 and 52 dated 7-3-1992 has no legal sanctity. That is insofar as the amount of Rs. 27,396,20 ps is concerned.

19. Likewise the amount of Rs. 3,143.53 ps which is said to be recoverable as per L.P.C. also appears to be suffering from the same defect. Since there was no enquiry about the liability of the petitioner and no finding is recorded by any authority, we are unable to countenance the plea that such an amount is due from the petitioner.

20. Turning to the house rent, it is on record that a regular suit was filed against the petitioner for recovery of rent due and damages for the period from 1-5-1971 to 31-3-1973 and the same was decreed for Rs.6,070/-. There was a further direction for future rent and damages at the rate of Rs. 290/-per month from 1-8-1973 to The date of eviction i.e. 11-5-1983 and it worked out to Rs-52,436.35 ps. the above decree was confirmed in a Second Appeal by the High Court of Delhi and the amount payable under the decree is Rs. 57,506.35 ps. We are of the view tht the respondents are entitled to recover the above amount viz., Rs.57,506.35 ps.

21. Since the pay of the petitioner,, has to be refixed in accordance with the revised Pay Scales by implementing the direction of A.P. Administrative Tribunal in the matter of his notional promotion as Superintendent with effect from 3-1-1962, his pension also has to be refixed. It is for the authorities to fix the pension of the petitioner accordingly. Then the terminal benefits will have to be worked out. Next important question for consideration is whether the terminal benefits can be proceeded against for the purpose of recovery of any dues.

Section 11 of the Pensions Act, 1871 is extracted below:

"11. Exemption of pension from attachment".- No pension granted or continued by Government on political considerations, or on account of past service or present infirmities or as a compassionate allowance and no money due such pension or allowance or to become due on account of any shall be liable to seizure, attachment or sequestration by process of any Court at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court".

22. In Deokinandan Prasad Vs. The State of Bihar and Others, a Constitution Bench of the Supreme Court considered the nature of right to pension and held-

" Pension is not aboutny payable on the sweet will and pleasure of the Government and that on the other hand, the right to pension is a valuable right vesting in a Government servant.

Right to receive pension is property under Article 31(1) and by mere executive order the State has no power to withhold the same. Similarly, the said claim is also properly under Article 199(1)(f) and it is not saved by sub-article (5) of Article 19."

It is further held-

"Though a Civil Court is barred from entertaining suit relating to pension such bar does not stand in the way of a writ of mandamus being issued to State to properly consider the claim of a servant for payment of pension according to law".

23. In State of U.P. and Another Vs. Shri Krishna Pandey, the Supreme Court considered the case of an officer who was alleged to have embezzled a sum of Rs.2,47,779/- and he was allowed to retire from service on attaining the age of

superannuation. The departmental proceedings were initiated against him thereafter. After looking into Regulation 351-A of Civil Services Regulations (similar to Rule 9 of AP. Revised Pension Rules), it is held-

"A reading thereof clearly indicates that the Governor reserves to himself the power and right to withhold or withdraw pension or a part thereof, whether permanently or for a specified period. Equally, he has right to order recovery from pension of the whole or part of any pecuniary loss caused to the Government when it is found in a departmental or judicial proceedings that the delinquent was guilty of grave misconduct or has caused pecuniary loss to the Government by his misconduct or negligence while he was continuing in service including the period of his re-employment after retirement. But the conditions precedent are that the departmental proceedings should be initiated only either before retirement or during re-employment and the same shall not be instituted without the sanction of the Governor. It should be in respect of an event which may have taken place not more than 4 years before the institution of such proceedings".

It is further held-

"It would thus be seen that proceedings are required to be instituted against a delinquent officer before retirement. There is no specific provision allowing the officer to continue in service nor any order passed to allow him to continue on re-employment till the enquiry is completed, without allowing him to retire from service. Equally, there is no provision that the proceedings be initiated as a disciplinary measure and the action initiated earlier would remain unabated after retirement. If regulation 351 -A is to be operative in respect of pending proceedings, by necessary implication, prior sanction of the Governor to continue the proceedings against him is required. On the other hand, the Regulation also would indicate that if the officer caused pecuniary loss or committed embezzlement etc. due to misconduct or negligence or dereliction of duty, then proceedings should also be instituted after retirement against the officer as expeditiously as possible. But the events of misconduct etc. which may have resulted in the loss to the Government or embezzlement, i.e., the cause for the institution of proceedings, should not have taken place more than four years before the date of institution of proceedings. In other words, the departmental proceedings must be instituted before lapse of four years from the date on which the event of misconduct etc. had taken place, admittedly, in this case the officer had retired on 31-3-1987 and the proceedings were initiated on 21-4-1991. Obviously, the event of embezzlement which caused pecuniary loss to the State took place prior to four years from the date of his retirement. Under these circumstances, the State had disabled itself by their deliberate omissions to take appropriate action against the respondent and allowed the officer to escape from the provisions of Regulation 351-A of the Regulations. This order does not preclude proceeding with the investigation into the offence and taking action thereon".

24. We have applied our anxious consideration to the facts of this case. No departmental proceedings were initiated against the petitioner during his service or during his re-employment. It can be gathered from the counter averments that he was given re-employment for a limited period for the purpose of updating the cash book and other accounts. If there was even an inkling at that time that he had misappropriated any amounts, he would not have been re-employed. Evidently the so called misappropriation appears to have come to light subsequent to his retirement. Thereafter several memos were issued asking him to remit the amounts, but no one thought of initialing proceedings under Rule 9. The reasons are best known to the respondents for their inaction in the matter. First and foremost it is strange that a serious dereliction of duty on the part of the petitioner in not making entries in the cash book for nearly 2 years was not noticed by any of his superiors. It is a well known fact that A.P, Guest House, New Delhi is manned by several officers and the administration is entrusted to a senior I.A.S. Officer, but we are aghast to find that the petitioner was allowed to go scot free. The audit party appears to have been pressed into service after about 8 years of the event. It is another thing that the audit party has pointed out various acts and omissions of the petitioner that resulted in loss to the Government, but it was too late for the respondents. It is now well settled by the Judgment cited supra (2) that the proceedings should have been initiated within 4 years of the event. The action of the respondents in issuing G.O. Ms. No.470, T,R&B, dated 16-5-1979 as well as GO. Ms. No.52, T,R&B dated 7-3-1992 cannot be approved in the above circumstances. We, therefore, hold that the action of the respondents in withholding death-cum-retirement gratuity of Rs. 5,9107- and also arrears of pension amounting to Rs. 18,912/- is illegal. Pension and other terminal benefits are in our view insulated by Section 11 of Pension Act from being proceeded against by any creditor. Likewise Section 60(g) of the CPC also provides for exemption of all stipends and gratuities allowed to the pensioners of the Government from attachment.

25. As regards the computation of the pension and the terminal benefits, we are not inclined to express any opinion on the rival statements of calculations filed by both the parties for the simple reason that both of them are totally divergent . Moreover, the service Register of the petitioner is not made available and hence his total service and pay drawn by him from time to time are not brought on record. It may, however, be seen that the basis for computation of pension viz., basic pay of the petitioner as on the date of his retirement has been arrived at by us. Then his average pay for the qualifying period of service will have to be worked out and the pension is to be fixed. We propose to leave this exercise to the respondents subject to a condition that the petitioner may be given an opportunity of hearing before final settlement of the pension and the terminal benefits.

26. The last aspect that remains to be considered is whether the petitioner is entitled for interest or compensation for wrongfully withholding the pension and terminal benefits. Sri. M.Panduranga Rao, learned Counsel for the petitioner

stated that the petitioner's family consisting of himself, his sickly wife and four unmarried daughters was put to any amount of misery for about 25 years and hence a reasonable interest or compensation may be awarded. Sri. P.V.R. Sarma, learned Government Pleader, on the other hand, contended that the petitioner himself is responsible for the delay if any and that he has been paid minimum pension together with the allowances during the pendency of the matter. He specifically pointed out that the government took a lenient view of the matter and dispensed with formalities like filing certificate of re-employment and production of stamp receipt and issued G.O-Ms. No.52, T, R&B, dated 7-3-1992 enhancing the pension from Rs. 100A to Rs. 370/- with effect from 1.12.1989 and its earlier order imposing a cut of Rs. 5/- in the pension ordered in GO. Ms. NO.470 T.R&B dated 16-5-1979 has also been rescinded. In that view of the matter, he urged that no interest or compensation be awarded.

27. On an earnest consideration of the above contentions and having regard to the facts and circumstances of the case, we are satisfied that the authorities were not fair on their part in keeping the pension and other terminal benefits unsettled for as long a period as 25 years. Hence it is a fit case for awarding interest at 12% p.a, on the entire amount withheld by the respondents from the date of filing of writ petition i.e., 5.11.1996 till the date of realisation.

28. For the above reasons, we find merit in this writ petition and the same is allowed directing the respondents to fix his pay as indicated above and work out the pension and other terminal benefits on that basis after giving an opportunity of hearing to the petitioner within three months from today. The petitioner is awarded Rs. 5,000/- as costs and interest at 12% per annum on the entire amount withheld by the respondents from the date of filing of writ petition i.e. 5-11-1996 till the date of realisation.