
(2013) 09 AP CK 0068

In the Andhra Pradesh High Court

Case No : Writ Petition No. 24635 of 2013

M. Radhakrishna

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 24-09-2013

Acts Referred:

Citation : (2014) 1 ALD 82

Hon'ble Judges : L. Narasimha Reddy, J;A. Ramalingeswara Rao, J

Bench : Division Bench

Advocate : S. Rahul Reddy, for the Appellant; J. Ashok Kumar for Railways Respondents 1 to 3, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The petitioner joined the service of the South Central Railway in the year 1976 as Fireman against a vacancy reserved for Scheduled Tribe. Thereafter, he earned promotions and retired from service on 31.10.2012 as Loco Pilot. In the year 2007, a Charge Memo was issued to him, requiring him to submit the latest caste certificate, stating that complaints have been received against the genuinity of caste certificate submitted by him at the time of appointment. The petitioner expressed inability stating that he left his native place in the year 1976, and at this length of time, it will be difficult for him to obtain the caste certificate. When his explanation was not accepted, the petitioner filed O.A. No. 95 of 2007 before the Central Administrative Tribunal, Hyderabad Bench (for short "the Tribunal"). The Tribunal has allowed the O.A. through order, dated 27.02.2007, and set aside the Charge Memo, dated 05.02.2007. However, it was left open to the respondents to get the social status of the petitioner verified, by the authorities of the District concerned.

2. On 31.10.2012, on which the petitioner attained the age of superannuation, the Divisional Railway Manager, Personnel Branch, Secunderabad, served a Memo upon the petitioner stating that his social status is under investigation by the Constitutional Authority, and till finalisation thereof, payment of his retirement

benefits is withheld.

3. Feeling aggrieved by the memo, dated 31.10.2012, the petitioner filed O.A. No. 1389 of 2012 before the Tribunal. The O.A. was dismissed on 25.07.2013. Hence, this Writ Petition.

4. Heard Sri S. Rahul Reddy, learned counsel for the petitioner, and Sri J. Ashok Kumar, learned standing counsel for Railways, appearing for the respondents.

5. The petitioner has retired from service on 31.10.2012, on attaining the age of superannuation. Any employee, who retired from service, is entitled to be paid pension and other benefits, stipulated under the relevant rules. It is only when any disciplinary or criminal proceedings are pending as on the date of retirement, that the benefits in their entirety or in part can be withheld.

6. It is, no doubt, true that on 05.02.2007, the respondents issued a charge memo to the petitioner, making certain allegations on the genuineness of caste certificate submitted by him. The charge memo was set aside by the Tribunal, when challenged in O.A. No. 95 of 2007. The order in that O.A. has become final. The only liberty given to the respondents was to verify the matter with the authorities of the District concerned.

7. The A.P. (SC, ST, BCs) Regulation of Issue of Community Certificates Act, 1993 prescribes the procedure not only for issuance of community certificate, but also for cancellation thereof. A District Level Scrutiny Committee is to be constituted for every District, and any matter, pertaining to the cancellation of community certificate, has to be referred to that. It is only when the Committee recommends the cancellation of the community certificate, after conducting a detailed enquiry, that the District Collector can pass an order canceling the community certificate. In the instant case, not even a beginning was made in that direction.

8. Rule 9 of the Railway Services (Pension) Rules, 1993 directs that pension or gratuity or other benefits of an employee, who retired from service, can be withheld, only if departmental or judicial proceedings are pending, as on the date of his retirement. Sub-Rule 5 thereof defines departmental proceedings. It is only when a charge sheet is served upon the employee, that the departmental proceedings can be said to be pending. Admittedly, no charge sheet was served upon the petitioner, by the time he retired from service, and there are no judicial proceedings. When these two proceedings are not pending, any amount of doubt expressed by the respondents, as to the social status of the petitioner, would not be of any avail to them, nor they can withhold the pension and other benefits, which have accrued to the petitioner.

9. Accordingly, the Writ Petition is allowed, and it is directed that the respondents shall release the pension and other benefits to the petitioner, in accordance with law, within a period of two (2) months from today. There shall be no order as to costs. The Miscellaneous Petitions, if any, pending in the writ petition shall stand

disposed of.