
(2010) 04 AP CK 0038
In the Andhra Pradesh High Court
Case No : Writ Petition No. 6324 of 2010

V. Ravi Prabha

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 06-04-2010

Acts Referred:

Andhra Pradesh (Revised) Pension Rules, 1980 — Rule 45, 54

Citation : (2010) 3 ALD 489 : (2010) 4 ALT 280 : (2010) 126 FLR 338

Hon'ble Judges : Ghulam Mohammed, J;G. Bhavani Prasad, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; G.P for Services I for Respondent Nos. 1 to 3, for the Respondent

Judgement

Ghulam Mohammed, J.—The writ petitioner is stated to have been in Government service from 07.01.1958 to 10.12.1965 with certain breaks, in the office of the Horticulture and Assistant Oil Seeds Development Officer, Warangal. Thereafter, in 1965, she was transferred to the District Agricultural Office, Warangal and as the atmosphere therein was not congenial to the lady employees, she did not join the duty and made several representations seeking cancellation of transfer orders, but no steps have been taken thereon. Then, though she submitted her resignation, no orders either accepting or rejecting the same, were passed. Subsequently, when she sought sanction of pension for the service rendered by her, the Commissioner of Agriculture informed on 17.04.1995 that her request to grant pension was refused on the ground that her services were utilized under emergency provisions and that she was not recruited by either the A.P. Public Service Commission or the D.S.C. and accordingly, issued the impugned memo No. 9226/Agri.IV(2) 98-3 (Agri & Coop) Department, dated 23.09.1998. Therefore, the petitioner filed O.A. No. 5440 of 1999 before the A.P. Administrative Tribunal, Hyderabad. The Tribunal, through its order dated 10.09.2003, dismissed the said O.A., holding that the applicant therein has not put in the required length of service, rendering her eligible to be granted the service pension. Aggrieved thereby, the writ petitioner filed this Writ Petition.

2. On behalf of the respondents, a counter-affidavit has been filed contending that the applicant has rendered a total service of 7 years 6 days, whereas ten years minimum service is required to grant service pension as per Schedule-I of the A.P. Liberalized Pension Rules, 1961. It is further stated that under F.R. (73) note, a provision is made available that a temporary Government servant working under emergency provisions who remains absent from duty after applying for leave or extension of leave to which she/he is not entitled to, under the Rules, shall be deemed to have been discharged from service with effect from the date from which he/she is not entitled to any leave unless the leave applied for is granted by the Government in relaxation of relevant rules.

3. Learned Counsel for the petitioner contends that the conditions where the petitioner was posted were not congenial and, therefore, she requested for transfer and later, as the same was not considered, she submitted her resignation, but no orders either accepting or refusing the same were passed.

4. We have perused the A.P. (Revised) Pension Rules, 1980 and the Andhra Pradesh Liberalized Pension Rules, 1961. Rule 45 of the 1980 Rules reads as follows:

45: Amount of Pension: (1) In the case of a Government servant retiring in accordance with the provisions of these Rules before completing qualifying service of ten years, the amount of service gratuity shall be appropriate amount as set out below namely:

Rule 46 deals with retirement gratuity. It prescribes that A Government servant who has completed five years qualifying service and has become eligible for service gratuity or pension under Rule 45, shall on his retirement, be granted retirement gratuity,:

(A) In case he draws pay in the Revised Scales of Pay, 1993, a sum equal to.:

(i) 1/4th of emoluments for each completed six monthly period of service, subject to a maximum of fifteen times the emoluments or rupees sixty five thousand, whichever is less; or

(ii) 3/16th of emoluments for each completed six monthly period of service, subject to a maximum of 12.375 times the emoluments or rupees one lakh whichever is less;

in accordance with the choice exercised by him in this behalf; and

(B) In case he does not draw pay in the Revised Scales of Pay, 1993, a sum equal to,:

(i) 1/3rd of emoluments for each completed six monthly period of service, subject to a maximum of twenty times the emoluments or Rupees fifty thousand, whichever is less; or

(ii) 1/4th of emoluments for each completed six monthly period of service,

subject to a maximum of 16 1/2 the emoluments, or Rupees one lakh, whichever is less.

Rule 54 of the 1980 Rules confers the power of relaxation on the Government, which reads as follows:

54. Power to relax: Where Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, Government, may, by order for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary, for dealing with the case in a just and equitable manner:

Provided that no such order shall be made except with the concurrence of the Finance and Planning (F.W.) Department.

5. Therefore, in view of the peculiar facts and circumstances of the case, since the petitioner has not put in the minimum qualifying service as required under the Rules, without going into the merits of the case, in detail, we are of the opinion that the case of the petitioner requires reconsideration by the Government, in exercise of its powers under Rule 54 of the 1980 Rules.

6. In that view of the matter, we direct the petitioner to make a representation to the Government for consideration of her case for grant of pension, within two weeks from today and on such representation being made, the Government shall examine the same and pass necessary orders, keeping in view the facts and circumstances of the case, within four weeks thereafter and communicate the same to the petitioner.

7. The Writ Petition is disposed of accordingly. No costs.