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APHC010180902026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3460]

WEDNESDAY, THE 15th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 9151/2026

Between:

1.DEVARAKONDA PRASAD ALIAS D.N.V PRASAD, S/O.
GURAVAAIAH, AGED ABOUT 62 YEARS, OCC DEPUTY
SUPERINTENDENT OF POLICE, DISTRICT TRAINING
CENTRE, SRIKAKULAM, NOW ATTACHED TO POLICE
TRAINING COLLEGE, ANANTAPURAMU.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, HOME DEPARTMENT, SECRETARIAT,
AMARAVATI, ANDHRA PRADESH - 522238.

2.THE DIRECTOR GENERAL OF POLICE, ANDHRA PRADESH,
AP DGP HEAD QUARTERS, MANGALAGIRI - 522503.

3.THE SUPERINTENDENT OF POLICE, SRIKAKULAM
DISTRICT, DISTRICT POLICE OFFICE, RTC COMPLEX AREA,
SRIKAKULAM, ANDHRA PRADESH - 532001.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that
in the circumstances stated in the affidavit filed therewith, the High

Court may be pleased to issue a Writ Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the inaction of the respondent authorities in issuing orders sanctioning the Voluntary Retirement of the Petitioner from service with effect from 31.03.2026, inspite of the written representations dt. 06-02-2026 submitted pursuant to the Radio Message bearing C.NO.866/A1/2025 dt. 19-01-2026, as being illegal, arbitrary, unjust and unconstitutional and consequently direct the respondent authorities to consider and sanction the Voluntary Retirement of the Petitioner from service with effect from 31.03.2026, on medical grounds,

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to forthwith sanction the voluntary retirement of the petitioner from service w.e.f. 31.03.2026 duly releasing all service benefits, terminal dues, pension, gratuity, G.P.F. and other retiral benefits admissible to the Petitioner upon sanction of his Voluntary Retirement, pending disposal of the and to pass

Counsel for the Petitioner:

1.S V INDIRA

Counsel for the Respondent(S):

1.GP FOR SERVICES I

The Court made the following:

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

HON'BLE SRI JUSTICE NYAPATHY VIJAY**W.P.No.9151 of 2026****O R D E R:**

The present writ petition is filed questioning the inaction of the Respondents in sanctioning voluntary retirement of the Petitioner with effect from 31.03.2026 as arbitrary and illegal.

2. The Petitioner was appointed as a Sub-Inspector of Police in the year 1991 through APPSC and was subsequently promoted as Circle Inspector on 30.06.2010. Thereafter, the Petitioner was promoted as Deputy Superintendent of Police in 2023 and the Petitioner is due to retire on attaining the age of superannuation on 30.06.2026. As the Petitioner is suffering from severe back pain due to Lumbar Disc problems and Cervical ailments, underwent treatment at the Government Hospital Srikakulam and was advised rest for three weeks from 06.09.2025. Thereafter, the Petitioner underwent heart surgery and is suffering from problems associated with Disc Bulge and Chronic gastritis problems.

3. In view of the precarious health condition, the Petitioner gave a representation to the Director General of Police, Mangalagiri on 18.08.2025 requesting sanction of voluntary

retirement from service by 31.12.2025 on medical grounds. In the meantime, as the health condition of the Petitioner improved, the Petitioner gave a letter on 16.10.2025 requesting cancellation of voluntary retirement application. Thereafter, the health condition of the Petitioner deteriorated and gave a representation on 16.12.2025 to the DGP requesting for sanction of voluntary retirement from service by 31.12.2025 on medical grounds.

4. On 19.01.2026, a radio message was received from the Inspector General of Police, VSP Range, Visakhapatnam requesting for fresh representation to be forwarded for onward transmission. In pursuance thereto, the Petitioner again made another representation on 06.02.2026 for voluntary retirement by the end of February 2026 on medical grounds. However, no orders were passed thereon. Hence, the present writ petition is filed to give effect to voluntary retirement of Petitioner with effect from 31.03.2026.

5. Counter affidavit is filed by Respondent No.2, wherein the appointment of Petitioner in 1991 and subsequent promotion as Deputy Superintendent of Police and the applications for voluntary retirement on 16.10.2025 and 06.02.2026 were

admitted. Pursuant thereto, fax messages were received from S.P., Srikakulam District to furnish qualifying service as per the service book and no due certificate in respect of the Petitioner with effect from 17.02.2026, 28.02.2026 and 12.03.2026. While the request of the Petitioner for VRS is under process, the Petitioner remained absent on medical grounds and during this period, on 01.03.2026, the Petitioner is said to have visited before Tulluru Police Station and submitted a written complaint containing allegations against dignitaries holding constitutional positions, which are beyond the scope of duties of a Police Officer.

6. It is also stated that the Petitioner, despite having 30 years of service as Police Officer, acted in a manner unbecoming to a Government servant. It is also stated that disciplinary proceedings have been initiated against the Petitioner on 20.04.2026 and that he interacted with the media contrary to the conduct rules. A reference was made to Rule 43 of the A.P. Revised Pension Rules and that the request of the Petitioner for voluntary retirement was rejected on 27.04.2026.

7. Heard Smt. S.V.Indira, learned counsel for the Petitioner and learned Government Pleader for Services.

8. The Petitioner admittedly was appointed in the year 1991 and had completed 30 years of service by 2024. The Rule 43 and 44 of the A.P.Revised Pension Rules, 1980 govern the manner in which an individual can seek for voluntary retirement. An individual after 20 years of service can seek retirement under Rule 43 of the Rules, by giving a notice period of (03) months. In the notice period, the authority concerned has the right to accept or reject the application within the notice period as per sub Rule 43(4).

9. In stark contrast, an employee who completed 30 years of service can seek retirement by giving notice of three (3) months to the Respondents under Rule 44. Under Rule 44, there is no option other than to accept the appointing authority (unless the employee is under suspension) as there is no corresponding provision as in Rule 43(4) in Rule 44. On expiry of the notice period, the voluntary retirement is deemed to have come into effect. The subsequent charge memorandum would not be of any

relevance for the purpose of voluntary retirement. The Rule 44 of the A.P. Revised Pension Rules reads as under:

44. Retirement on completion of 30 years qualifying service:

(1) At any time after a Government servant has completed thirty years' of qualifying service but before attaining 58 years age-

(a) He may retire from service, or

(b) He may be required by the appointing authority to retire in the public interest, and in the case of such retirement, the Government servant shall be entitled to a retiring pension:

Provided that:-

(a) The Government servant gives notice in writing to appointing authority atleast three months before the date on which he wishes to retire; or

(b) The appointing authority gives a notice in writing to the Government servant atleast three months before the date on which he is required to retire in the public interest or three months pay and allowances in lieu of such notice, as the case may be:

Provided further that where the Government servant giving notice under clause (a) of preceding proviso is under suspension, it shall be open to the appointing authority to withhold permission to such Government servant to retire under this rule.

(2) A Government servant, who has elected to retire under this rule and has given the necessary intimation

to that effect to the appointing authority shall be precluded from withdrawing his election subsequently except with the specific approval of such authority:

Provided *that the request for withdrawal shall be within the intended date of his retirement.*

10. The only question that needs to be answered is, whether the letter seeking voluntary retirement sought by the Petitioner aligns with the Rules. In the letter dated 16.12.2025, the Petitioner sought voluntary retirement from 31.12.2025 on account of a fragile health condition. Though, the Rule prescribes a notice period of three (03) months, the same can be waived by the authority concerned. The Petitioner at the instance of the Respondents, again gave a letter on 06.02.2026 seeking to be retired from 31.03.2026.

11. Whenever, a letter for voluntary retirement is sought, the same is to be construed as a notice period of 03 months and in that context, the letter of the petitioner dated 16.12.2025 would come into effect on lapse of 03 months i.e by 16.03.2026 and consequently, the employer-employee relationship ceased between the parties as no orders were passed by the competent authority to reject the application of the petitioner within the notice period and for that matter till date. It would be apt to refer to the

judgement of Hon'ble Supreme Court in **State of Haryana v. S.K. Singhal¹**;

13. Thus, from the aforesaid three decisions it is clear that if the right to voluntarily retire is conferred in absolute terms as in Dinesh Chandra Sangma case¹ by the relevant rules and there is no provision in the rules to withhold permission in certain contingencies the voluntary retirement comes into effect automatically on the expiry of the period specified in the notice. If, however, as in B.J. Shelat case² and as in Sayed Muzaffar Mir case³ the authority concerned is empowered to withhold permission to retire if certain conditions exist, viz., in case the employee is under suspension or in case a departmental enquiry is pending or is contemplated, the mere pendency of the suspension or departmental enquiry or its contemplation does not result in the notice for voluntary retirement not coming into effect on the expiry of the period specified. What is further needed is that the authority concerned must pass a positive order withholding permission to retire and must also communicate the same to the employee as stated in B.J. Shelat case² and in Sayed Muzaffar Mir case³ before the expiry of the notice period. Consequently, there is no requirement of an order of acceptance of the notice to be communicated to the employee nor can it be said that non-communication of acceptance should be treated as amounting to withholding of permission.”

¹ (1999) 4 SCC 293

12. The voluntary retirement letter on 06.02.2026 given at the instance of the Respondents is only a reiteration of his request to retire vide letter dated 16.12.2025 and the request to be relieved on 31.03.2026 is again a discretion of the concerned authority. It is to be noted here that voluntary retirement is statutory right of the employee and an employee who has completed 30 years of service has absolute right to retire voluntarily and the scope of rejection by the competent authority is very limited i.e only if the individual is under suspension, which is to be exercised within notice period of (03) months. The disciplinary action initiated by issuance of charge memorandum on 21.4.2026 was long after the ceasing of relationship and the same is not of consequence.

13. Accordingly, the writ petition is disposed of declaring that the Petitioner is deemed to have retired on 16.03.2026 and the Respondents shall determine the retirement benefits as on that date and disburse the same to the Petitioner. No order as to costs.

As a sequel, the miscellaneous petitions if any shall stand dismissed.

NYAPATHY VIJAY, J

Date: 15.07.2026

KLP