



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



THURSDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 14408 OF 2023

Between:

Mukkollu Venkateswara Rao, S/o. M. Gopaiah, aged about. 65 years,
Retired JAO, R/O. D.Nn.6-1 10, Samatha Nagar, Nuzuvid(M), Krishna
District, A.P. 521201.

...Petitioner

AND

1. The APCPDCL, Rep. by its Chairman and Managing Director, R/o. Opp. Ramesh Hospital, Eluru Road, Vijayawada.
2. The Superintending engineer, operation circle, APCPDCL, O/o. Opp. PDWD grounds, Vijayawada.
3. The Divisional Executive Engineer operation, Town Division, APCPDCL, O/o. Opp. PDWD grounds, Vijayawada.

...Respondents

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 order or direction or writ more particularly one in the nature or Writ of Mandamus declaring the action of the respondents in deducting an amount of Rs.2,42,695/- (Rupees Two Lakhs Fourty Two Thousand Six Ninety fiver only) from retirement benefits of petitioner's, arbitrary and violative of Art. 14, 16 and 21 of the Constitution of India and consequently direct the

respondents to pay the same with interest at the rate of 12Percentage per annum and to pay petitioner's pensionary benefits on the basis of his last drawn salary, and to pay difference of gratuity and difference of pension along with commuted value of pension.

IA NO: 1 OF 2023

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 re-fix petitioner's pension on the basis of his last drawn basic pay without reducing the basic due to recovery effected.

Counsel for the Petitioner: SRI M PITCHAIAH

Counsel for the Respondent No.3: SRI V V SATISH (SC for APEPDCL)

Counsel for the Respondent Nos.1 to 2: SRI V R REDDY KOVVURI (SC FOR APCPDCL)

The Court made the following order:

APHC010280432023



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

[3460]

THURSDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 14408/2023

Between:

Mukkollu Venkateswara Rao

...PETITIONER

AND

The Apcpdcl and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. M PITCHAIAH

Counsel for the Respondent(S):

1. V V SATISH (SC for APEPDCL)

2. V R REDDY KOVVURI (SC FOR APCPDCL)

The Court made the following:

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**WRIT PETITION NO: 14408/2023**

The present Writ Petition is filed to declare the action of the Respondents in deducting an amount of Rs.2,42,695/- from the retirement benefits of the Petitioner as illegal and arbitrary.

2. The facts leading to filing of the present Writ Petition are as follows:

The Petitioner had retired from service as J.A.O on 31.07.2018 on attaining the age of 60 years. At the time of retirement, the Respondent Corporation had paid the retirement benefits towards Gratuity leave encashment, GPF, Commuted Pension and Earned Leave Encashment, but deducted Rs.2,42,695/- towards excess pay. Though no information was initially given to the Petitioner as to why the amount was withheld, eventually, the impugned Proceedings were issued stating that the amount of Rs.2,42,695/- was recovered towards excess pay and allowances on account of wrong pay fixation.

3. Learned Standing Counsel appearing for the Respondents would contend that the present Writ Petition is filed after a long lapse of 7 years and therefore, the same cannot be entertained.

4. Heard the respective counsel.

5. It is to be noted that the Petitioner had retired from service in the year 2018 and it is not the case of the Respondent Corporation that the Petitioner had influenced in making wrong pay fixation.

6. The Hon'ble Apex Court in the case of ***State of Punjab and others v Rafiq Masih (White Washer)***¹ has held that after considering the case law in vogue at the point of time fixed certain parameters at paragraph No.18, situations where recovery should not be effected from the employees. Paragraph No.18 of the said judgment reads as under:

“It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

¹ (2015) 4 SCC 334

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

In view of the above judgment, the recovery from the retired employees or the individuals who are due to retire within one year is impermissible.

The same principle was reiterated by the Hon'ble Apex Court in ***Thomas Daniel v State of Kerala and others***² and ***Jogeswar Sahoo and other v The District Judge, Cuttack and others***³.

7. The Petitioner's case clearly fits under the aforementioned category. Therefore, the impugned recovery by the Respondents towards excess pay and allowance due to wrong pay fixation cannot be sustained.

² 2022 Live Law (SC) 438

³ 2025 Livelaw (SC) 396

8. The contention of the learned Standing Counsel appearing for the Respondents with regard to delay is mischieved considering the categorical judgment of the Hon'ble Apex Court and the retention of the money being in contravention of the judgment of the Hon'ble Apex Court, the delay would not be material to reject the case of the Petitioner..

9. Accordingly, the Writ Petition is allowed and the Respondent Authorities are directed to pay a sum of Rs.2,42,695/- to the Petitioner with interest at 7.5% p.a. within a period of three (03) months. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

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Sd/- A VIJAYA BABU
ASSISTANT REGISTRAR
SECTION OFFICER

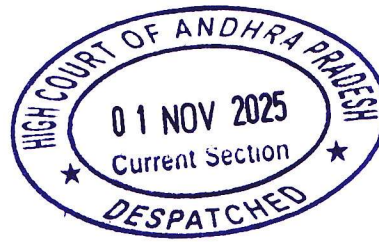
To,

1. The Chairman and Managing Director, APCPDCL, R/o. Opp. Ramesh Hospital, Eluru Road, Vijayawada.
 2. The Superintending engineer, operation circle, APCPDCL, O/o. Opp. PDWD grounds, Vijayawada.
 3. The Divisional Executive Engineer operation, Town Division, APCPDCL, O/o. Opp. PDWD grounds, Vijayawada.
 4. One CC to Sri. M Pitchaiah, Advocate [OPUC]
 5. One CC to Sri. V V Satish (SC for APEPDCL), Advocate [OPUC]
 6. One CC to Sri. V R Reddy Kovvuri, (SC FOR APCPDCL) Advocate [OPUC]
 7. Two CD Copies.
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HIGH COURT

DATED:07/08/2025

ORDER
WP NO. 14408 OF 2023



ALLOWING THE W.P. WITHOUT COSTS