



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

[3470]

FRIDAY ,THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 20217/2024

Between:

Union Of India and Others

...PETITIONER(S)

AND

B Rambabu and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1.Y V ANIL KUMAR (Central Government Counsel)

Counsel for the Respondent(S):

1.

The Court made the following:

Heard Sri Y.V.Anil Kumar, learned Central Government Counsel for the petitioners.

2. Respondent No.1 was imposed with the punishment of compulsory retirement in the year 2011. Challenging the said order as also the appellate order dated 28.09.2012, OA.No.1402 of 2013 was filed, which was allowed vide order dated 24.08.2018 in the following terms:

"22. Thus, based on the facts stated above and the supreme judgments rendered by the Hon'ble Supreme Court quoted above, we in the Tribunal cannot conclude otherwise, than to accede to the prayer of the 1st applicant. Hence, the

impugned order of the disciplinary authority dated 3.1.2011 and the order of the appellate authority dated 28.09.2012 are set aside. Consequent to setting aside the impugned orders stated, the respondents are directed to consider as under:

i) To consider treating the period of absence of the 1st applicant for 399 days as if he was on sick list and the financial benefits payable for the said period may be processed;

ii) To consider and dispose the plea of the 1st applicant for compassionate appointment of his ward i.e. the 2nd applicant, if he is otherwise eligible in all respects as per Serial Circular No.92 of 2006, by subjecting the 1st applicant to medical examination as per rules and regulations on the subject:

iii) To consider the pension to be appropriately redrawn as if the 1st applicant were to be in service from the date of compulsory retirement till the date of superannuation. However, pay and allowances shall not be drawn for this period i.e. from the date of compulsory retirement till the date of superannuation.”

3. The petitioners considered the case in compliance of the order of the Tribunal, and treated the respondent No.1 herein, as retired on superannuation. Consequently, the proceedings for recovery for the pension amount which was initially granted treating the date of compulsory retirement as the date of retirement, were initiated. With respect to the compassionate appointment of respondent No.2 the claim was rejected.

4. Challenging the aforesaid proceedings, respondent Nos.1 & 2 filed OA.No.566 of 2020, in which the Tribunal vide judgment dated 20.10.2020 maintained the order of recovery but directed to reconsider the case of respondent No.2 for compassionate appointment afresh. The petitioners again considered the case and rejected the case mainly on the ground that it was a case of superannuation of respondent No.1, and as such compassionate appointment could not be given to respondent No.2 in view of Serial Circular No.92 of 2006 dated 22.06.2006.

5. The respondent Nos. 1 & 2 again filed OA.No.295 of 2021, which has been allowed by the order impugned in this writ petition. The Tribunal directed

to reconsider the case of respondent No.2 as also to refund the amount, for which proceedings of recovery had been taken previously against the respondent No.1.

6. Learned counsel for the petitioners submits that so far as the matter for recovery is concerned, it attained finality vide order dated 20.10.2020 in OA.No.566 of 2020 consequently, the refund could not be directed.

7. So far as the compassionate appointment is concerned, learned counsel for the petitioners submits that the respondent No.1 was treated as retired on superannuation pursuant to the order of the Tribunal dated 24.08.2018 in OA.No.1402 of 2013, itself, and so the compassionate appointment could not be ordered to be reconsidered for respondent No.2.

8. Issue notice to the respondents.

9. Let counter affidavit be filed in six weeks.

10. Two weeks thereafter is granted for filing reply affidavit.

11. Post on 18.11.2024.

12. *Prima facie*, we find force in the submission of the learned counsel for the petitioners.

13. Until further orders of the Court, the operation of the impugned order shall remain stayed.

RAVI NATH TILHARI,J

NYAPATHY VIJAY,J

Dated:13.09.2024

AG