



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

[3545]

TUESDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT APPEAL NO: 206/2023

Writ Appeal under clause 15 of the Letters Patent by the order of the learned Single Judge dated 15-06-2022 in WP.No.42201/2005, the Appellants are filing this Writ Appeal

Between:

1. THE CENTRAL WAREHOUSING CORPORATION, (A GOVERNMENT OF INDIA UNDERTAKING), REP BY IT'S MANAGING DIRECTOR, 4/1, SIRI INSTITUTIONAL AREA, WAREHOUSING BHAVAN, AUGUST KRANTI MARG, HAUZ KHAS, NEW DELHI.
2. THE REGIONAL MANAGER,, CENTRAL WAREHOUSING CORPORATION, WAREHOUSING SADAN, BEHIND GANDHI BHAVAN, NAMPALLY, HYDERABAD.

...APPELLANT(S)

AND

1. G RAJA RAO, ...APPELLANTS/RESPONDENT NOS 1 AND 2 S/O. VENKATESHWAR RAO, AGED ABOUT 70 YEARS, OCC. RETD. EMPLOYEE, R/O. H.NO. 5-90/1, SARASWATHI PUBLIC SCHOOL ROAD, RAMAVARAPPADU, VIJAYAWADA RURAL - 521108.
2. THE UNION OF INDIA, REP. BY ITS JOINT SECRETARY, MINISTRY OF FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION, KRISHI BHAVAN, NEW DELHI - 110 001.

...RESPONDENT(S):

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 Pleased to condone the delay of 147 days in representing the Writ Appeal(S.R.) No.34200 of 2022

IA NO: 2 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 please to condone the delay of 32 days in filing the present Writ Appeal in the Interest of Justice

IA NO: 3 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 please to suspend the orders 15.06.2022 made in W.P. 42201 of 2015 of the learned single judge of this Hon'ble Court, pending disposal of the Writ Appeal. in the interest of Justice.

IA NO: 1 OF 2024

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 pleased to Vacate the interim orders in IA.No.3 of 2023 in WA.No.206 of 2023 dt; 12-07-2023 and dismiss the WA.No.206/2023 in the interest of justice and pass

Counsel for the Appellant(S):

1.O UDAYA KUMAR

Counsel for the Respondent(S):

1.Pasala Ponna Rao,DEPUTY SOLICITOR GENERAL OF INDIA

2.G SEENA KUMAR

The Court made the following:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND
And
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT APPEAL No.206 of 2023

JUDGMENT: *((Per Hon'ble Sri A. Hari Haranadha Sarma)*

Introductory:-

This Writ Appeal is directed against the Order dated 15.06.2022 passed by the learned Single Judge of this Court in W.P.No.42201 of 2015, which was allowed and the unsuccessful respondents are before this Court with a prayer to set aside the said orders.

2. The respondent No.3 in the Writ Petition is the 2nd respondent herein, and a proforma party.

3. For the sake of convenience, parties will be hereinafter referred to as the Writ Petitioner and the respondents as and how they are referred in the impugned orders.

Case of the Writ Petitioner, in brief:-

4. [i] The Writ Petitioner joined in Central Warehouse, Rayapuram, Madras as Group 'C' Official i.e., Junior Technical Assistant on 15.01.1976. He was promoted as a Technical Assistant w.e.f. 16.08.1979 and posted at

Central Warehouse, Nidamanoor, Vijayawada, A.P. and subsequently promoted various capacities and worked various places. The pay and allowances of Central Public Sector Undertakings (CPSU) were of two types. Majority of the CPSU were with Industrial D.A. patterns of pay scales and about 67 CPSU were in Central D.A. (CDA) pattern of scales. In 1983, the Government of India ordered that CPSU following central D.A. pattern of Scale would switch over to Industrial D.A. pattern, Central Warehousing Corporation (CWC) was one of the CPSU following the CDA pattern of scales. As per the instructions of Government of India, CWC awarded IDA Scales in place of CDA scales to group C & D employees w.e.f. 01.08.1983. In view of the said decision, the wage pattern was changed from CDA to IDA.

[ii] Said decision of the Government of India, came to be challenged by Group A and B Officers of these CPSU before the Hon'ble Supreme Court against the implementation of IDA Scales to them. As per the direction of the Hon'ble Court, the Government of India appointed a High-Power Pay Committee (HPPC) and its recommendations were mandated by the Hon'ble Supreme Court on 03.05.1990 and were communicated for implementation to all concerned CPSU by the department of Public Enterprises DPS vide its OM dated 12.06.1990.

[iii] The petitioner's wage scale had not been fixed in IDA scales, the CWC is not complied with the recommendations and highhandedly forced to CDA scales. Pay fixation method was not properly followed and it has resulted in 30% reduction of gross emoluments of the petitioner, which was even lower than his juniors. On promotion, the petitioner is entitled for basic and DA should be Rs.2,838/- but it was reduce to Rs.2,077/-. He waited for necessary corrections and addressed several letters, but there was no response. However, CWC informed the petitioner that as per the office order under reference No.CWC/I-Pay Prot/IDA-CCS/Supdt/Rectt/09 dated 20.01.2010, the differential amount (reduced amount of salary) has been treated as personal Pay to be adjusted in future increments. But CWC proposed 'Personal Pay' to its Board contradicting the Committee settlement and report.

[iv] Further, the petitioner claimed that CWC denied the petitioner's accrued arrears of Rs.4,85,008/- and also victimizing him by withholding pension funds. The Pensionary benefits from 01.01.2007 accrued is Rs.2,30,882/- as calculated by the Corporation was also withheld and also CWC charged higher interest @14% flat to the loan taken by the petitioner.

[v] While the matter stood thus, all of sudden the Corporation has issued the impugned Circular No.CWC/I-CDA-Switch over IDA/Rectt./2012-13, dated 28.05.2014, wherein it has superseded the office order dated 02.12.2011 and through the impugned order, it has decided to allow 226

executives, who are in CDA pattern of pay scales as on 10.08.2009 to switch over the IDA pattern of pay scales on voluntary basis w.e.f. 01.01.2007. The petitioner is aggrieved by the said order, therefore, prays to set aside the said orders dated 28.05.2014.

Case of the respondents in the Writ Petition

5. [i] No cause of action raised at Hyderabad.

[ii] The petitioner retired at Mumbai on attaining superannuation, there are no pending orders against the order dated 17.12.2011.

[iii] Through a letter dated 30.03.2016, detailed information is furnished with regard to payment, excess payment and also recovery including entitlement of the petitioner a sum of Rs.16,365/- and the same has been received by the petitioner on 30.3.2016,

[iv] Group C & D employees were shifted to IDA pattern of pay-scales with effect from 01.08.1983 and their pay scales were subsequently revised with effect from 01.08.1987, after consulting with the employees Union.

[v] Superintendents Association filed Writ Petition No.12329 of 1994 seeking protection of their pay and counter was filed.

[vi] Contempt Case No.540 of 1988 filed by the Superintendents Association was dismissed vide orders dated 05.07.1999.

[vii] In pursuance to the orders of the Honourable Apex Court, the final settlement was accepted by the petitioner on 22.01.1998. In respect of housing loan sanction, the issue variably stipulate higher rate of interest @2.5% above the prescribed rates with a stipulation that the petitioner took HBA loan in the year 1995 for an amount of Rs.2,25,000/- at interest @11.5%. Thereafter, interest was changed to 14%, (11.5 % + 2.5%).

[viii] Charge allowance was sanctioned to the petitioner vide sanctioned order dated 01.06.2016 as per admissibility.

[ix] The petitioner did not opt for IDA pattern, therefore there would be no question of arrears.

Findings of Learned Single Judge:-

6. [i] Learned Single Judge, referred to the observations of the ***Jute Corporation of India Officers' Association Vs. Judge Corporation of India Limited, and another***¹, wherein it was observed that the Court directed the Central Government to constitute High Power Committee relating to Pay Scales and such other incidental matters and the observations relevant therein are as follows:-

“5.the Central Government expressed its willingness to refer to Higher Power Pay Committee the question regarding the revision of pay scales, additional dearness allowance, compensatory and other allowances and such other incidental aspects relating to the employees governed by the Central

¹ (1990) 3 SCC 436

pattern of pay scales and dearness allowance. Accordingly, the court directed the Central Government to constitute High Power Pay Committee to go into various aspects relating to pay scales and other incidental matters including interim relief to the said employees, viz., the employees governed by the Central Government pattern of pay scales and dearness allowance.”

Taking into consideration of the recommendations made by the High Power Pay Committee, the Hon'ble Supreme Court directed as follows:

“(i) The scales of pay the dearness allowance as recommended in the report will be extended to those employees who have been appointed with specific terms and conditions for grant of Central Dearness Allowance. This will be equally applicable to the employees, who by rules laid down by the public sector enterprises are being paid Central Dearness Allowance.

(ii) The employees appointed on or after January 1, 1989, will be governed by such pay scales and allowances as may be decided by the government in its discretion. Those appointed earlier with IDA pattern will continue to be governed in accordance with the terms and conditions of their appointment

(iii) The pay revision for those employees in respect of whom the recommendations are hereby being directed to be implemented hereafter, will take place only as and when similar changes are effected for the Central Government Employees. These employees will, however, continue to enjoy the option to switch over to the IDA pattern of the scales of pay etc., on a voluntary basis.”

[ii] By mentioning those above observations, learned Single Judge observed that the writ petitioner is entitled for pensionary benefits and directed for payment of accrued areas of pension, etc., while declaring the impugned proceedings dated 28.05.2014 challenged by the writ petitioner as illegal and arbitrary.

Arguments in the Appeal:-

For the appellants/Respondents 1 & 2:-

7. [i] The impugned proceedings dated 28.5.2014 are subsequent to retirement of the writ petitioner, and they have general application of the executives, who are in Central DA pattern and Pay Scale to shift to Industrial DA pattern.

[ii] Instead of considering the applicability of the same to the writ petitioner, setting aside the whole proceedings is not correct.

[iii] Learned Single Judge ought to have addressed the claim of the writ petitioner independently, whether he is entitled for payment of arrears or not.

[iv] Learned Single Judge ought to have held that once the Writ Petitioner has received Rs.16,365/- on 30.3.2016, all other claims of the writ petitioner became stalled, and he cannot continue to agitate the issues raised in the Writ Petition.

[v] Learned Single Judge ought to have observed that the principles laid down in the decision in ***Judge Corporation of India Limited's case*** [cited supra], is not applicable to the facts of the present case.

[vi] Awarding interest is not correct.

[vii] The orders of the learned Single Judge suffer for want of reasons and proper discussion and the contentions raised by the rivalry parties.

For the 1st respondent/Writ Petitioner :-

8. [i] There is discrimination against the writ petitioner and the amounts payable to him are not paid.

[ii] The appellants received individual office order dated 17.12.2011 in favour of the Writ Petitioner as per IDA pattern. He has received pay scales from 2011 to 2012 till the date of retirement.

[iii] He made representation to release the arrears.

[iv] The proceedings dated 28.05.2014 were given having effect of cancelling the benefit given to him, and the said proceedings are subsequent to his retirement.

[v] On that stage, he has filed Writ Petition No.42201 of 2015, questioning the proceedings as illegal, and the Honourable High Court was pleased to grant interim order/direction dated 30.12.2015 that notwithstanding the pendency of the writ petition, authorities shall consider the entitlement of the petitioner to receive monetary benefits if he is otherwise entitled to.

[vi] In compliance of the said interim orders, instead of paying total amount of Rs.2,30,822/-, deduction of Rs.2,14,457/- was made from the pension on the ground of excess salary paid in IDA pattern and released only Rs.16,365/-.

[vii] The salary which was passed during the service as per own orders of the Department cannot be recovered.

9. Heard both sides extensively.

10. Thoughtful consideration is given to the arguments advanced by both sides.

11. Now the points that require determination in this appeal are -

1) Whether the orders dated 15.06.2022 passed by the learned Single Judge of this Court in W.P.No.42201 of 2015, require any interference?

2) What is result of the appeal?

Point No.1:-

12. The proceedings dated 17.12.2011 are indicating pay fixation in terms of IDA pay scale, shifting from CDA pattern. The writ petitioner is seeking payment as per the said order and for declaration of subsequent order dated 28.05.2014 as illegal, arbitrary, and unconstitutional. It is relevant to note that there is reply from the Secretary to the Government of

India to the Writ petitioner as to non-payment of arrears and terminal leave benefits, etc., by letter dated 29.01.2013, where under it is mentioned that pay of writ petitioner is fixed by giving difference in pay as Personal Pay, switching over from CDA to IDA pattern. From this, it is clear that the ground that the writ petitioner did not shift or opt for IDA pattern is not correct.

13. When the writ petitioner is relying on the proceedings dated 17-12-2011, proceedings No.CWC/I-4464/Estt./788E wherein it is mentioned that pay revision is applicable from 1.1.1989, from the first date of promotion. The argument that the writ petitioner is not entitled benefit from 30.06.1998 cannot be appreciated. As the first promotion date is mentioned as 30.06.1998. In the proceedings dated 17-12-2011 applicability of the IDA pay scale is mentioned with effect from the first date of promotion or, on or after 1.1.1989. The deduction of amount towards adjustment pursuant to the proceedings dated 28.5.2014 from the amount payable is also found not correct. Therefore, the directions under the impugned order to give effect to the proceedings dated 17.12.2011, ignoring the proceedings dated 28.5.2014, is found correct. However, the orders under challenge having the effect of setting aside the proceedings dated 28.5.2014 require clarification in the facts and circumstances of the case. Therefore, we find that the omnibus allowing of the Writ Petition need not be continued, and the declaration with the proceedings dated 28.5.2014 are not applicable to

the writ petitioner is sufficient, along with a direction of Mandamus to pay arrears, etc., in terms of the proceedings dated 17.12.2011, will meet the ends of justice and results in granting the benefit to which the writ petitioner is entitled to. The argument that the writ petitioner is estopped as he has received Rs.16,365/- found not acceptable. On the contra it can be held that the appellants are bound by the proceedings dated 17.12.2011.

14. In view of the discussions made, this Court finds that the impugned orders dated 15.06.2022 passed by the learned Single Judge in Writ Petition No.42201 of 2015 require no interference to the extent of payment of arrears to the writ petitioner as per the office order / proceedings CWC/I-4464/Estt./788E, dated 17.12.2011 with effect from 30.06.1998 together with interest at the rate of 9% with all consequential benefits. But the declaration made under the impugned circular No.CWC/1-CDA-Switch over IDA/Rectt./2012-13 dated 28.5.2014 as illegal, not necessary and the declaration that the said order not binding on the petitioner as they are subsequent to the retirement of the writ petitioner is sufficient and orders require modification accordingly.

15. In the result, the Writ Appeal is dismissed. However, with the following observations:-

(i) The orders dated 15.06.2022 passed in W.P.No.42201 of 2015, which are under challenge are confirmed.

(ii) It is clarified that the impugned Circular No. CWC/I-CDA-Switch over IDA/Rectt./2012-13 dated 28.05.2014 is not binding on the petitioner and the observation contra in the impugned orders passed in the Writ Petition to the extent of declaring the same as illegal, arbitrary etc., shall stand set aside.

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

JUSTICE BATTU DEVANAND

JUSTICE A.HARI HARANADHA SARMA

Dated: 31.03.2026
Pnr

**THE HON'BLE SRI JUSTICE BATTU DEVANAND
&
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**

WRIT APPEAL No.206 of 2023

Dt. 31 -03-2026

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