

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P. No. 11678 of 2017

Between:

Mohd. Muzaffarullah Shareef

... Petitioner

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 05.06.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 11678 of 2017

% 05.06.2023

Between:

Smt L.Vijayalaxmi

..... Petitioner

And

\$ The State of Telangana and others

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : M/s K.V.Rajasree

^ Counsel for the Respondent: G.P for Housing

? Cases Referred:

HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 11678 of 2017****ORDER:**

**Heard the Learned Counsel for the Petitioner and
Learned Government Pleader for Respondent No.1,
Learned Standing Counsel for Respondent Nos.2 and 3.**

2. This Writ Petition is filed to issue a Writ of Mandamus declaring the action of the respondents in not paying the special package to the petitioner as stated by the 2nd and 3rd respondents and as worked out by the Accounts Department of the 2nd respondent totally amounting to a sum of Rs. 21,30,735.00 together with interest of Rs.15,34,128/- totaling to Rs, 36,64,863/- with future interest and consequently direct the respondents to pay the same to the petitioner herein.

3. The case of the petitioner in brief, is as follows:

a) Petitioner had been working as Wireman from 01.01.1988 prior to bifurcation of state and having attained the age of superannuation, petitioner was promised benefits by 3rd respondent though letter dated 08.04.2005.

- b) By order dated 08.04.2005, temporary employees who have completed 10 years of service and were continuing as on date were removed.
- c) All personnel who were appointed and continuing in the service and had completed 10 years of service, they are entitled for the benefit of regularization of their service.
- d) Even though petitioner was eligible to avail the said benefits, the 3rd respondent without issuing any notice had issued proceedings dated 08.04.2005 dispensing the petitioner's service. Aggrieved by the same, W.P. No. 8391 of 2005 had been filed, which was allowed. The respondent authorities had filed Writ Appeals and the same were dismissed.
- e) Respondent authorities tried to lure the employees promising to give a special package which involved payment of 4 to 5 times of legally entitled wages in case of retrenchment of employees from service.
- f) When certain petitioners therein refused to withdraw the Writ Petitioner, they were arrested by the police and the

helpless employees and made to believe that acceptance of special package by the employees was the only way to survive.

g) Petitioner too had withdrawn the Writ Petition but petitioner was neither paid any special package nor was the petitioner reinstated into service. Those who did not withdrew from the Writ Petition, were reinstated into service and are continuing. Had the petitioner been reinstated into service as per the orders in W.P. No. 8391 of 2005, petitioner would have continued into service and would have superannuated from service on 31.12.2014.

h) As a result of respondents tactics, petitioner had lost employment and also the special package. Petitioner was not paid the entire entitled amount but only a partial amount of Rs. 2,86,455/- though he had completed 10 years of service as per G.O.Ms.No. 212 and the entitled amount under Special Package had not been paid to the petitioner. Hence this Writ Petition.

4. The counter affidavit filed by the 3rd Respondent paras 4, 5 and 6 read as under :

"Para 4. It is submitted that the petitioner and other challenging the order of retrenchment filed Writ Petition No. 8391/2005. It is further submitted that the petitioner has withdrawn the Writ Petition and received the payment in full and final settlement. It is humbly submitted that the allegation of the Petitioner that this respondent used pressure tactics and forced the petitioner to withdraw the Writ Petition is concocted story for self serving purpose. It is submitted that the petitioner having received the benefits and encashed the cheque for amount of Rs.2,86,455/- and now complaining before this Hon'ble Court by making false and baseless allegations without any substance.

5. It is submitted that the petitioner approached this Hon'ble Court with unclean hands and filed unsigned document with the name of the officer as if he is entitled for a sum of Rs. 36,64,863/-

6. It is submitted that the calculation sheet does not bear the signature of Senior Audit Officer and when this respondent made enquiry he denied any such calculation sheet is prepared by him at any point of time. It is therefore humbly submitted that the petitioner filed present Writ Petition after lapse of 12 years and there is no cause much less reasonable cause explained in this regard in the affidavit filed in support of the Writ Petition"

PERUSED THE RECORD :

5. Paras 5, 6 & 7 of the Additional Counter affidavit filed by the 2nd Respondent reads as under :

"Para 5. I submit that without prejudice to the above contentions I respectfully submit that the petitioner was paid the special package benefit payable to him and he has acknowledged the same and received the amount through cheque dated 29-11-2005 and encashed the same without any demur. I further submit that the special package amount was paid to the petitioner in pursuance of the decision taken by the Group of Ministers and offered him more amount than the amount payable under the Industrial Disputes Act.

Para 6. I humbly submit that the petitioner approached this Hon'ble Court with unclean hands after more than 12 years without explaining any sufficient cause in approaching this Hon'ble Court and now making false and baseless allegations as if this Respondent Housing Board has prepared the bill as claimed, which is filed along with the writ petition, which do not contain neither the date nor the signature of the alleged Senior Audit Officer. I submit that the Senior Audit Officer was relieved from his duties on 16-04-2005

Para 7. I humbly submit that it was informed to all the workers that VRS package for the NMRs and work charged employees was approved by the Group of Ministers. I humbly submit that with regard to work charged employee VRS was paid as 1½ months salary (ie, 45 days) for every completed year of service. With regard to NMR workers VRS was paid as one month salary for every completed year of service. I, therefore **respectfully submit that the petitioner was paid the amount as per the decision taken by this Respondent Housing Board and the petitioner received the same as per the special package offered and this Respondent Housing Board has not committed any irregularity.** I humbly submit that the Division Bench in WP No.270 of 2011 and batch passed Judgment dated 22-03- 2012 in respect of the employees who have not received the special package and the retrenchment compensation offered by this Respondent Housing Board and granted relief of reinstatement with continuity of service and in such of those employee who have not received the amount were taken back into service. **Whereas the petitioner herein was paid and received the amount and approached this Hon'ble Court after lapse of 12 years."**

DISCUSSION AND CONCLUSION :

6. The Petitioner places reliance on letter dt. 06.05.2005 of the Executive Engineer (Housing) Central Division vide Letter No.A2/EE(CD)/2005 and contends that the Respondents No.2 and 3 have not released the special package to the Petitioner and aggrieved by the same the Petitioner approached the Court seeking the prayer as sought for by the Petitioner herein.

7. It is specifically stated in the Additional Counter Affidavit filed by the 2nd Respondent that the Petitioner was paid the special package benefit payable to him and he had acknowledged the same and received the amount through Cheque dated 29.11.2005 and encashed the same without any demur and the said special package amount was paid to the Petitioner in pursuance to the decision taken by the group of Ministers and the Petitioner was offered more amount than the amount payable under the Industrial Disputes Act, and that the Petitioner approached the Court after more than 12 years without explaining any sufficient cause on the basis of a bill which neither contains the

date nor signature of the alleged Senior Audit Officer of the Respondent Authority. It is contended by the Respondents that the group of Ministers had taken a decision to pay one and half months salary i.e., 45 days for every completed year of service to work charged employee and with regard to NMR workers VRS was paid as one month salary for every completed year of service and that the Petitioner was paid as per his entitlement and the claim of the Petitioner that he is entitled for balance amount of Rs.21,30,755/- is totally a fallacious claim without any basis.

8. Taking into consideration of the above facts and circumstances of the case and the fact that the petitioner failed to explain the reasons for the delay in approaching the Court after lapse of 12 years after having received the special package benefit payable to him through cheque dated 29.11.2005 and encashed the same without any demur and duly considering the specific averments made by the Respondents in the Additional counter affidavit filed by the 2nd respondent and the counter affidavit filed by the 3rd Respondent,

the Writ Petition is dismissed since the same is devoid of merits. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 05.06.2023

Note: L.R. copy to be marked
b/o kvrm