

HON'BLE MRS JUSTICE SUREPALLI NANDA

REVIEW I.A.No.1 of 2023

IN

W.P.NO. 13401 OF 2020

ORDER:

Heard learned Assistant Government Pleader for Services-II appearing on behalf of the review petitioner and learned counsel appearing on behalf of the respondent.

2. The learned Asst. Govt. Pleader mainly submits that the writ petitioner did not bring to the notice of the Court about pendency of Criminal Case No.594 of 2020 registered against the writ petitioner on the file of the Junior Civil Judge Court at Nalgonda and in view of the said suppression, the writ petitioner is not entitled for the relief granted to the writ petitioner in W.P. No. 13401 of 2020 vide order dated 25.04.2023. **The operative portion of the order dated 25.04.2023 passed in W.P. No. 13401 of 2020 reads as under:**

"19. Taking into consideration of all the above referred facts and circumstances, and the law laid down by the Apex Court In (1) **Union of India v. Vicco Laboratories"** in (2007) 13 SCC 270 (2) M/S.

Seimens Limited v. State of Maharashtra" in (2006) 12 SCC 33 (3) S.K. DUA v State of Haryana reported in 2008(3) SCC 44, the writ petition is allowed, setting aside the impugned order vide G.O.Rt.No.83 Schedule Caste Development (Vig.) Department dated 25.06.2020 and also the consequential Memo No.5008/SCD.Vig./2012 dated 25.06.2020. The respondents are further directed to release all the retiral benefits due to the petitioner at the rate of 24% per annum from the date of Imposing the punishment dated 17.04.2019 till actual payment is made, within a period of three weeks from the date of receipt of a copy of the order. However, there shall be no order as to costs.

3. For adjudication of the present review Clause – C of G.O.Rt.No.1097, dated 22.06.2000, (Finance and Planning Department) is relevant and the same reads as under:

"C. Retirement Gratuity: According to clause (C) of sub-rule (1) of Rule 52 of the Andhra Pradesh Revised Rules, 1980, on Gratuity shall be paid until the conclusion of the departmental or judicial proceedings and issue of final orders. According to the proviso to the above said rule, where departmental proceedings have been instituted under Rule 9 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, for imposing any of the penalties

specified in clauses (i), (ii) and (iv) of rule 9 of the said rules, except the cases falling under sub-rule (2) of Rule 22 of the said rules, the Government Servant. It is also further provided in the said rule that where a conclusion has been reached that a portion of pension only should be withheld or withdrawn and the retirement gratuity remains unaffected in the contemplated final orders, the retirement gratuity can be released up to 80% of the eligible retirement gratuity".

4. Taking into consideration the fact that criminal proceedings had been pending against the petitioner at the time of retirement of the petitioner which is a fact as borne on record which however, had not been brought to the notice of this Court when the present writ petition was disposed of finally on 25.04.2023 and is brought to the notice of this Court by filing of the present review application by the Government only in October, 2023, this Court opines that there is an error apparent on the face of the record and accordingly taking into consideration the facts put forth before this Court in the review application and duly considering Rule 9 (4) and Rule 52 of the Andhra Pradesh Revised Pension Rules 1980, this Court is of the firm opinion that the petitioner is entitled to only

provisional pension and not full pension. The respondents are therefore, directed to release 80% gratuity to the petitioner as per Clause C of G.O.Rt.No.1097, dated 22.06.2000 (Finance and Planning Department), within a period of three weeks from the date of receipt of a copy of the order.

5. The order dated 25.04.2023 passed in W.P.No.13401 of 2020 is modified to the extent above. Para '19' of the order dated 25.04.2023 passed in W.P.No.13401 of 2020 is substituted as under:

“Taking into consideration of all the above referred facts and circumstances, and the law laid down by the Apex Court in (1) Union of India v. Vicco Laboratories” in (2007) 13 SCC 270 (2) M/s. Seimens Limited v. State of Maharashtra” in (2006) 12 SCC 33 (3) S.K.DUA v State of Haryana reported in 2008(3) SCC 44, the writ petition is allowed, setting aside the impugned order vide G.O.Rt.No.83 Schedule Caste Development (Vig.) Department dated 25.06.2020 and also the consequential Memo No.5008/SCD.Vig./2012 dated 25.06.2020, **duly considering Rule 9 (4) and Rule 52 of the Andhra Pradesh Revised Pension Rules 1980, this Court opines that the petitioner is entitled to only provisional pension and not full pension, the respondents are therefore, directed to**

release 80% gratuity to the petitioner as per Clause C of G.O.Rt.No.1097, dated 22.06.2000 (Finance and Planning Department), within a period of three weeks from the date of receipt of a copy of the order.

6. Accordingly, Review I.A. No.1 of 2023 in W.P. No. 13401 of 2020 is allowed and the order dated 25.04.2023 passed in W.P.No.13401 of 2020 is modified to the above extent.

MRS. JUSTICE SUREPALLI NANDA

25.04.2024.

Note

Issue C.C. within a week

(B/o)

Skj

HON'BLE MRS JUSTICE SUREPALLI NANDA

REVIEW I.A.No.1 of 2023
IN
W.P.NO. 13401 OF 2020

DATE: 25.04.2024.

Note

**Issue C.C. within a week
(B/o)
Skj**

