

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

FRIDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO**

WRIT PETITION NO: 36176 OF 2016

Between:

K. Madhusudhan Reddy, S/o late Venkat Reddy, aged about 62 years, occu:
Deputy Zonal Manager (AM) (Retired), TSIIC Limited (earlier known as
(APIIC), Hyderabad, now r/o House No. 11-8-243/A, Sri Sai Krishna Nagar,
Saroomagar, Hyderabad-500 035.

...PETITIONER

AND

1. Vice-Chairman and M.D., Telangana Industrial Infrastructure Corporation Limited (TSIIC) (earlier known as APIIC), 6th Floor, Parisrama Bhavan, Basheerbagh, Hyderabad - 500 004.
2. Institution of Lok Ayukta of Andhra Pradesh & Telangana, States, Basheerbagh, Hyderabad rep. by its Registrar.
3. Sri J. Ramanjaneyulu, Chief General Manager (AM) and Enquiry Officer, Internal Audit, APIIC, Parisrama Bhavan, 6th Floor, Basheerbagh, Hyderabad- 500 004.

...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 call for records and issue orders, direction or writ more particularly in the nature of writ of mandamus for declaration declaring that the that the orders dated 06.05.2016 r/w order dated 05.07.2016 in complaint No. 670/2013/B1 passed by the Respondent No. 2 / Institution including the disciplinary proceedings initiated vide charge sheet dated 20.05.2013 issued by the Respondent No. 1 to the petitioner after his retirement without any condition from the service on 31.05.2012 and all the pursuant actions thereof including the penalty orders No. 24612/PW/APIIC/2012, dated 20.10.2014 of the Respondent

No. 1 as illegal, arbitrary and not sustainable either in Law or on facts and contrary to the APIIC Staff Regulations and also the APIIC Conduct, Disciplinary and Appeals Regulations and consequently set aside the same and direct the respondent No. 1 to immediately arrange for payment of sum of Rs. 1,45,969/- to the petitioner along with interest at 24% p.a. with effect from 01.06.2012 till payment together with damages of atleast Rs. 5,000/-for mental agony suffered by him.

I.A. NO: 1 OF 2016(WPMP. NO: 44582 OF 2016)

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 pass interim orders directing the respondent No.1 to arrange for payment of the amount interim orders directing the respondent No.1 to arrange for payment of the amount of Rs.1,45,969/- to the petitioner, pending disposal of the main writ petition to avoid further suffering and hardship to him.

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 to permit the petitioner to place on record in the WP the petition schedule papers in the interest of Law and Justice.

Schedule of the additional material papers

1. Copy of the IOM 798/APIIC/LAC/98, dated 06.07.2009 of the Executive Director-I, APIIC, Hyderabad.
2. Audit Memo No.01/APIIC/IALACIEGNR/JDM2012/1, dated 15.05.2012 of the Executive Director (S), APIIC
3. Copy of Letter No.APIIC-IALACIE-GNR/2011, dated 18.05.2012 the writ petitioner.
4. Copy of letter dated 07.06.2013 of the writ petitioner addressed to the Vice Chairman & MD, APIIC.
5. Copy of letter dated 30.06.2014 of the writ petitioner addressed to the Chief General Manager (AM), Internal Audit (AM), APIIC.

6. Copy of the Report dated 23.07.2014 of the Vice Chairman & MD, APIIC submitted to the Hon'ble Lokayuktha, Hyderabad.

Counsel for the Petitioner: SRI G.MALOJI RAO (NOT PRESENT)

**Counsel for the Respondent No.1 & 3: SRI L.PRABHAKAR REDDY,
SC FOR TSIC**

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION No.36176 of 2016

ORDER: *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

Heard Mr. L.Prabhakar Reddy, learned Standing Counsel for Telangana Industrial Infrastructure Corporation Limited (TSIIC). No representation on behalf of the petitioner.

2. In this writ petition, the petitioner, *inter alia*, seeks a writ of mandamus declaring the orders dated 06.05.2016 read with order dated 05.07.2016 in complaint No.670/2013/B1 passed by the respondent No.2- Institution of Lok Ayukta of Andhra Pradesh and Telangana States, Hyderabad, including the disciplinary proceedings initiated *vide* charge sheet dated 20.05.2013 issued by respondent No.1-Corporation to the petitioner after his retirement without any condition from the service on 31.05.2012 and all the pursuant actions thereof including the penalty orders No.24612/PW/APIIC/2012, dated 20.10.2014 of the respondent No.1 as illegal, arbitrary and not sustainable either in Law or on facts and contrary to the APIIC staff Regulations and also the APIIC Conduct, Disciplinary and

Appeals Regulations and consequently, set aside the same and direct respondent No.1 to immediately arrange for payment of a sum of Rs.1,45,969/- to the petitioner along with interest at 24% per annum with effect from 01.06.2012 till payment together with damages of atleast Rs.5,000/- for mental agony suffered by him.

3.1 Facts giving rise to filing of this writ petition briefly stated are that the petitioner is retired from the service of respondent No.1-Corporation on 31.05.2012 on attaining the age of superannuation in the post of Deputy Zonal Manager (AM) and Commissioner, CIE Gandhinagar, Jeedimetla Zone, Hyderabad after putting a total service of 32 years. The respondent No.1-Corporation has been arranging payment of terminal benefits to the employees on the date of retirement and this practice is in vogue for more than ten years and two of his colleagues namely Sri Sharma, Deputy General Manager (Finance) and Sri T.Subba Rao, Manager (AM) were also retired and they received terminal benefits on the date of their retirement. In the case of the petitioner, encashment of earned leave, the amount under Group Savings Linked Insurance Scheme (GSLIS) and the amount towards Dearness Allowance which was hiked with

effect from January, 2012 were not paid to him. Similarly, Employees Provident Fund of Rs.20,70,796.53 ps was issued in his favour on 28.09.2012 with a delay of four months due to which he suffered loss of interest on the said amount.

3.2 It is further averred that respondent No.1-Corporation issued memo dated 15.05.2012 to the petitioner calling explanation about regularization of unauthorized construction made in CIE Gandhinagar, Hyderabad when he was working as Deputy Zonal Manager (AM) and Commissioner, for which he submitted a reply dated 18.05.2012. Thereafter, respondent No.1-Corporation did not take any action, in the meanwhile respondent No.1-Corporation retired the petitioner from service without any condition on 31.05.2012 on his attaining the age of superannuation. Petitioner requested the respondent No.1-Corporation *vide* his letters dated 19.09.2012 and 16.11.2012 to release all his terminal benefits but there was no response. As such, the petitioner approached respondent No.2 and lodged a complaint dated 21.02.2013 against respondent No.1-Corporation.

3.3 Petitioner further averred that the respondent No.1-Corporation issued memo dated 20.05.2013 for which he submitted explanation dated 07.06.2013 denying the charges and requested to drop further action since he was retired from service. However, the respondent No.1-Corporation appointed respondent No.3-Enquiry Officer on 05.09.2013, and he submitted enquiry report on 22.04.2014 as the charges proved against the petitioner. Pursuant to the same, respondent No.1-Corporation issued proceedings dated 20.10.2014 to recover 25% of the value of loss i.e., Rs.1,45,969/- out of the total sum of Rs.7,06,989/- payable to him towards terminal benefits of encashment of earned leave. Respondent No.2-Lokayukta passed order on 06.05.2016 holding that respondent No.1-Corporation is entitled to proceed with the disciplinary enquiry against the petitioner regardless of his retirement, and further directed respondent No.1 to pay retiral benefits to the petitioner after deducting Rs.1,45,969/- from the amounts payable to him by 30.06.2016 and file his compliance report by 05.07.2016. Thereafter respondent No.2 closed the complaint by its order dated 05.07.2016 stating that respondent No.2-Corporation filed report, wherein it is stated that an amount of

Rs.5,61,020/- has been paid to the petitioner towards his retiral benefits like encashment of earned leave/sick leave, etc., vide cheque bearing No. 4904246, dated 16.12.2014. Hence, the present writ petition.

4. Sri L.Prabhakar Reddy, learned Standing Counsel for TSIIC submits that respondent No.2 is not having jurisdiction to entertain the complaint filed by the petitioner. The dispute between the petitioner and respondent No.1 is in respect of service disputes and the same is not amenable as per the provisions of the Telangana Lokayukta Act, 1983. However, he submitted that pursuant to the orders of the Lokayukta dated 06.05.2016, respondent No.1-Corporation has paid retirement benefits of Rs.5,61,020/- to the petitioner. Insofar as disciplinary proceedings, dated 20.05.2013 and other reliefs concerned, the petitioner has to avail the remedies as available under law and he is not entitled for the relief sought in the writ petition.

5. We have considered the submissions made by the learned Standing Counsel for TSIIC and perused the record.

6. It is pertinent to quote Section 2(a) and (b) as well as Section 7 of the Telangana Lokayukta Act, 1983, which read as under:

2. Definitions:- (a) 'action' means an administrative action taken by a public servant by way of decision, recommendation or finding or in any other manner, and includes any omission and commission and failure to act in connection with or arising out of such action; and all other expressions connecting action shall be construed accordingly.

(b) 'allegation' in relation to a public servant means any affirmation that such public servant -

(i) has abused his position as such, to obtain any gain or favour to himself or to any other person, or to cause undue harm or hardship to any other person;

(ia) has failed to discharge the functions attached to his post.

(ii) was actuated in the discharge of his functions as such public servant by improper or corrupt motive and thereby caused loss to the State or any member or section of the public; or

(iii) is guilty of corruption, or lack of integrity in his capacity as such public servant.

.....

7. (1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by, or with the general or specific approval of, or at the behest of,-

(i) a Minister or a Secretary; or

(ii) a Member of either House of the State Legislature; or

(iii) a Mayor of the Municipal Corporation constituted by or under the relevant law for the time being in force; or

(iii-a) a Vice Chancellor or a Registrar of a University;

(iv) any other public servant, belonging to such class or section of public servants, as may be notified by the Government in this behalf after consultation with the Lokayukta, in any case where a complaint involving an allegation is made in respect of such action, or such action can be or could have been, in the opinion of the Lokayukta, the subject of an allegation.

(2) Subject to the provisions of this Act, the Upa-Lokayukta may investigate any action which is taken by, or with the general or specific approval of, any public servant, other than those referred to in sub-section (1), in any case where a complaint involving an allegation is made in respect of such action, or such action can be or could have been, in the opinion of the Upa-Lokayukta, the subject of an allegation.

(3) Notwithstanding anything in sub-section (2), the Lokayukta may, for reasons to be recorded in writing, investigate any allegation in respect of an action which may be investigated by the Upa-Lokayukta under that sub-section, whether or not complaint has been made to the Lokayukta in respect of such action.

(4) Where two or more Upa-Lokayuktas are appointed under this Act, the Lokayukta may by general or special order, assign to each of them matters which may be investigated by them under this Act:

Provided that no investigation made by the Upa-Lokayukta under this Act and no action taken or thing done by him in respect of such investigation shall be called in question on the ground only that such investigation relates to a matter which is not assigned to him by such order."

7. On perusal of the aforesaid provisions, it is evident that respondent No.2-Lokayukta is not having jurisdiction to entertain the complaint lodged by the petitioner under Section 2(a) of the Telangana Lokayukta Act, 1983. However, pursuant to the orders dated 06.05.2016 passed by the Lokayukta, respondent No.1-Corporation paid retirement benefits in favour of the petitioner. In these peculiar facts and circumstances, this Court is not setting aside the order passed by the respondent No.2-Lokayukta on the ground of jurisdiction as respondent No.1 has already paid the amounts pursuant to the said order.

8. Insofar as the relief sought by the petitioner questioning the disciplinary proceedings initiated *vide* charge sheet dated 20.05.2013 and penalty order No.24612/PW/APIIC/2012, dated 20.10.2014 issued by respondent No.1 and consequential relief of claiming an amount of Rs.1,45,969/- along with 24%

per annum with effect from 01.06.2012 till payment together with damages of at least Rs.5,000/- for mental agony are concerned, this Court is not inclined to adjudicate the same in this writ petition, on the ground that the statutory remedy of appeal is provided under the Telangana Industrial Infrastructure Corporation Limited Conduct, Discipline and Appeals Regulations before the Board. The petitioner without availing such remedy filed this writ petition invoking the provisions of Article 226 of the Constitution of India and the same is not maintainable.

9. However, the petitioner is granted liberty to file statutory appeal as provided under the provisions of Telangana Industrial Infrastructure Corporation Limited Conduct, Discipline and Appeals Regulations before the appellate authority within a period of one month from the date of receipt of a copy of this order. In the event, the petitioner files the appeal within the stipulated time as mentioned supra, the appellate authority is directed to consider the said appeal and pass appropriate orders on merits in accordance with law after giving opportunity to the petitioner without insisting the condonation of delay.

10. With the above direction, the writ petition is disposed of accordingly. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

//TRUE COPY//

SD/- K. AMMAJI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Vice-Chairman and M.D., Telangana Industrial Infrastructure Corporation Limited (TSIIC) (earlier known as APIIC), 6th Floor, Parisrama Bhavan, Basheerbagh, Hyderabad - 500 004.
2. The Registrar, Institution of Lok Ayukta of Andhra Pradesh & Telangana, States, Basheerbagh, Hyderabad.
3. Sri J. Ramanjaneyulu, Chief General Manager (AM) and Enquiry Officer, Internal Audit, APIIC, Parisrama Bhavan, 6th Floor, Basheerbagh, Hyderabad- 500 004.
4. One CC to SRI G.MALOJI RAO, Advocate [OPUC]
5. One CC to SRI L.PRABHAKAR REDDY, SC FOR TSIIC [OPUC]
6. Two CD Copies

BSR
GJP

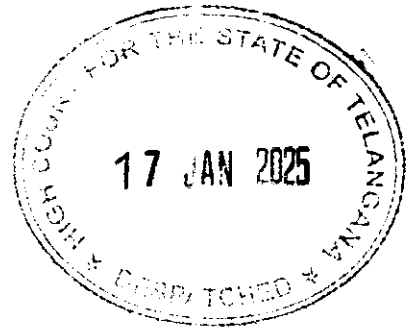
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HIGH COURT

DATED: 20/12/2024

ORDER

WP.No.36176 of 2016



DISPOSING OF THE WRIT PETITION,
WITHOUT COSTS

⑧

fcj
27/1/25