

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**THURSDAY, THE TWENTY SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT APPEAL NO: 83 OF 2026

Writ Appeal under clause 15 of the Letters Patent Preferred against Order
Dated 10/07/2025 in WP No 43517 of 2016 on the file of the High Court.

Between:

Adilabad Municipality, represented by its Commissioner, Adilabad.

...APPELLANT/RESPONDENT No.3

AND

1. Hari, S/o. Bhura Ram, aged 68 years, Public Health Worker (Retired), R/o. 4-3-7A, Mochigalli, Nethaji Chowk, Adilabad.

...RESPONDENT/WRIT PETITIONER

2. State of Telangana, represented by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.
3. The Director of Municipal Administration, State of Telangana, Hyderabad.

...RESPONDENTS/RESPONDENTS (1-2)

IA NO: 2 OF 2026

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 suspend the operation of the orders of the Learned Single Judge passed in W.P. No. 43517 of 2016, dated 10.07.2025, pending disposal of the main Writ Appeal.

Counsel for the Appellants: SRI RAMESH CHILLA, SC FOR MCPL

Counsel for the Respondent No.1: SRI K.RAMA SUBBA RAO

Counsel for the Respondent No.2 & 3: GP FOR MCPL ADMN & URBAN DEV.

The Court delivered the following: JUDGMENT

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN**

WRIT APPEAL No.83 OF 2026

DATE: 22.01.2026

Between:

Adilabad Municipality

....Appellant

AND

Hari and 2 others

....Respondents

JUDGMENT

This Writ Appeal is directed against the order dated 10.07.2025 passed by the learned Single Judge in W.P.No.43517 of 2016, whereby the writ petition filed by respondent No. 1 (hereinafter referred to as 'writ petitioner') was allowed and the appellant-Municipality was directed to pay all retirement benefits along with salary from 28.04.2006 till the date of superannuation, with interest at 12% per annum.

2. Heard Sri Ramesh Chilla, learned counsel for the appellant and Sri K.Rama Subba Rao, learned counsel for respondent No.1 and perused the material on record.

Factual background (in brief)

3. The writ petitioner was appointed as a Public Health Worker (originally appointed as Scavenger) in the Adilabad

Municipality on 01.08.1977. It is the case of the appellant-Municipality that the writ petitioner remained unauthorisedly absent from duty with effect from 29.07.2004. In that regard, a charge memo dated 28.04.2006 was issued initiating disciplinary proceedings. Though the writ petitioner was permitted to rejoin duty on humanitarian grounds on 26.05.2006, pending conclusion of the disciplinary proceedings, the writ petitioner failed to report for duty. It is noted that a second charge Memo was issued on 10.11.2016, which is of significance. The disciplinary proceedings, however, remained inconclusive for several years.

4. In the year 2016, after the issuance of the second charge Memo, the writ petitioner approached this Court by filing the underlying writ petition seeking payment of retirement benefits and salary for the period during which he remained absent from duty.

5. The learned Single Judge, by the impugned order, held that inasmuch as the writ petitioner was not suspended and was permitted to resume duties, the writ petitioner must be deemed to have continued in service till the date of superannuation and was, therefore, entitled to full salary for the said period as well as retiral benefits.

6. The appellant-Municipality, in this writ appeal, has raised several grounds and contended as hereunder:

- (i) That the writ petitioner remained unauthorisedly absent from 29.07.2004 to 31.07.2017 without sanctioned leave, which amounts to voluntary abandonment of service. Reliance was placed on **Vijay S.Sathaye v. Indian Airlines Limited¹**, wherein prolonged unauthorised absence was held to result in automatic severance of the employer–employee relationship.
- (ii) That the doctrine of “no work, no pay”, as reiterated in **Sukhdeo Pandey v. Union of India²**, applies squarely, disentitling the petitioner from salary or monetary benefits for the period which he admittedly did not render service.
- (iii) That the writ petition was premature and not maintainable, having been filed in 2016, prior to the petitioner’s superannuation on 31.07.2017, when no enforceable right to retirement benefits (cause of action) had accrued.
- (iv) That the claims for arrears of salary must be restricted only to three years preceding the filing of the writ petition in the absence of exceptional circumstances; hence, the direction of the learned Single Judge to pay salary from 2006 is legally unsustainable.

¹ (2013) 10 SCC 253

² (2007) 7 SCC 455

- (v) That the award of interest at 12% per annum was arbitrary and excessive, lacking any statutory or contractual basis, particularly in a matter involving disputed service matter.
- (vi) That the learned Single Judge failed to consider G.O.Ms.No.129 dated 01.06.2007, which introduced Rule 5-B into the Andhra Pradesh Leave Rules, 1933, whereby a government servant is deemed to have resigned if absent without authorisation for over one year subject to reasonable opportunity of explanation.

7. The learned counsel appearing for the writ petitioner supported the order of the learned Single Judge and contended as hereunder:

- (i) That the writ petitioner fell ill in the year 2004 owing to the nature of his duties and, after recovery, reported for duty, but was not permitted to resume work by the Sanitary Inspector. The writ petitioner also submitted explanations and medical certificates in response to the charge memo dated 28.04.2006.
- (ii) That though a charge memo was issued on 28.04.2006, no further steps were taken to conclude the disciplinary proceedings for nearly a decade. No Enquiry Officer was appointed, no enquiry was conducted, and the proceedings remained inconclusive, and the writ

petitioner was kept in a state of uncertainty. The inordinate delay according to the petitioner is solely attributable to the inaction of the appellant-Municipality.

- (iii) That the endorsement dated 26.05.2006 made by the Commissioner, Adilabad Municipality, permitting the writ petitioner to join duty on humanitarian grounds pending finalisation of the disciplinary proceedings, created a legitimate expectation that the writ petitioner would be allowed to resume duties, though he was prevented from doing so by the subordinate authorities.
- (iv) That the writ petitioner, being an uneducated public health worker, was unaware of procedural technicalities, yet made repeated representations, including in the years 2010 and 2016, seeking redressal and resolution of the issues.
- (v) That the inordinate and unexplained delay in concluding the disciplinary proceedings, vitiated the entire action, and the petitioner cannot be penalised for the administrative lapses of the employer. Thus, the writ petitioner ought to be treated as having continued in service till the date of superannuation.
- (vi) That the principle of "no work, no pay", cannot be mechanically applied where the employee was willing to work but was prevented from doing so by the employer.

In the absence of suspension and in view of the permission to rejoin duty, the petitioner was rightly held to be in service by the learned Single Judge.

(vii) That the cause of action was a continuing one and crystallised only upon issuance of the second charge memo in 2016. The writ petition was, therefore, filed within a reasonable time and cannot be rejected on the ground of delay or prematurity.

(viii) That without prejudice to the writ petitioner's primary claim for full benefits, the writ petitioner would be content if his claim for service benefits is allowed for the three years preceding the writ petition, together with full pensionary benefits.

Consideration by this Court

8. In the present case from the material placed on record, it is not in dispute that the writ petitioner did not attend duty from 29.07.2004 onwards without obtaining any sanctioned leave. The explanations tendered by the writ petitioner attributing the absence to illness and personal difficulties were admittedly submitted much later, subsequent to the issuance of the charge memo dated 28.04.2006. Though the appellant-Municipality issued a memo permitting the petitioner to join duty on 26.05.2006 on humanitarian grounds pending disciplinary proceedings, there is no contemporaneous material

to establish that the petitioner actually resumed duties or submitted any joining report thereafter.

9. The principle of “no work, no pay” is a well-settled doctrine in service jurisprudence, as reiterated by the Apex Court in **Sukhdeo Pandey** (supra 2), wherein it was held that remuneration is payable only for work actually rendered. Further, in cases of prolonged and continuous unauthorised absence, the Hon’ble Supreme Court in **Vijay S. Sathaye** (supra 1) has held that such conduct on the part of the employee may amount to voluntary abandonment of service, resulting in severance of the employer-employee relationship by the employee’s unilateral act.

10. It is also to be noted that the suspension is a positive administrative act, whereas unauthorised absence is a negative conduct attributable to the employee. Mere absence of a suspension order does not, by itself, lead to a presumption of continuity of service, particularly when the employee has failed to discharge duties for an extended period.

11. It is to be noted that the disciplinary proceedings initiated pursuant to the charge memo dated 28.04.2006 were not concluded for an inordinately long period. No Enquiry Officer was appointed and no final order was passed till the filing of the writ petition in 2016. Such administrative laxity on the part of the appellant-Municipality cannot be appreciated.

12. However, a significant factor in this case is the issuance of a second charge memo dated 10.11.2016 by the appellant Municipality. The act of issuing a second charge memo in November 2016 after a decade of inaction on the first charge memo dated 28.04.2006 unequivocally demonstrates that the Municipality itself considered the employment relationship to be subsisting and that the writ petitioner to be in service at that point of time. Having taken this step, the appellant Municipality cannot turn around and place the entire blame for the delay or the continuation of the proceedings on the employee.

13. The Hon'ble Supreme Court in ***Union of India v. Tarsem Singh***³ by reiterating the view taken in ***Shiv Dass v. Union of India***⁴ has held that claims for arrears of salary or service benefits in writ proceedings are ordinarily restricted to a period of three years preceding the date of filing of the writ petition, unless exceptional circumstances are made out.

14. In the present case, the writ petition was filed in December 2016, whereas the claim for salary relates to a period commencing from 2004. Even assuming that the writ petitioner is entitled to any monetary relief, such entitlement cannot travel beyond three years prior to the filing of the writ petition. The direction issued by the learned Single Judge to pay salary from

³ (2008) 8 SCC 648

⁴ (2007) 9 SCC 274

28.04.2006 till the date of superannuation, therefore, runs contrary to settled legal principles governing limitation of service claims.

15. It is also to be noted that the retiral benefits such as pension and gratuity are statutory in nature and accrue upon superannuation, subject to fulfilment of qualifying service under the applicable rules. The record discloses that the writ petitioner rendered regular service from 01.08.1977 till 29.07.2004, which constitutes a substantial period of qualifying service.

16. Furthermore, the order of the learned Single Judge, treating the employee to be in service until superannuation, for specific purposes, rightly enables the employee to avail pensionary benefits, based on his entire tenure, as the misconduct proceedings were never concluded. This aspect of the learned Single Judge's order does not warrant any interference.

17. The appellant-Municipality has already disbursed gratuity amounting to Rs.70,500/-, thereby acknowledging the past service rendered by the petitioner. While prolonged unauthorised absence may have a bearing on the quantum of pensionary benefits, it cannot result in complete forfeiture of retiral benefits earned on the basis of long years of service already rendered. However, such entitlement cannot be

extended to payment of full salary for the period during which no service was rendered.

18. The learned Single Judge's direction to pay interest at the rate of 12% per annum is not traceable to any statutory provision or contractual obligation. In service matters involving disputed claims, the grant of interest is discretionary and must be exercised judiciously. Having regard to the facts of the present case, the nature of the dispute, and the restricted period for which monetary benefits may be admissible, the rate of interest awarded by the learned Single Judge warrants interference by this Court. Therefore, a reasonable rate of interest at 9% per annum from the date of superannuation till actual payment would meet the ends of justice.

Conclusion

19. For the foregoing reasons, this Court is of the considered view that the writ petitioner shall not be entitled to salary for the entire period of absence from 2004 to 2017. In consonance with the law laid down in **Tarsem Singh's** case (supra 3), the claim for monetary benefits shall stand confined to a period of three years immediately preceding the filing of the writ petition, i.e., from December 2013 to December 2016, for which period the appellant-Municipality shall compute the notional salary payable, after giving due adjustment to any amount already paid.

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20. The order of the learned Single Judge treating the employee as continuing in service till the date of superannuation is affirmed to the limited extent that it enables the writ petitioner to draw pensionary and other statutory retirement benefits, subject to deduction of gratuity already disbursed. The writ petitioner shall further be entitled to interest at the rate of 9% per annum on the delayed payment of the aforesaid benefits, from the date of superannuation, i.e., 31.07.2017, till the date of actual payment.

21. The order of the learned Single Judge shall stand modified to the aforesaid extent, and the appellant is directed to give effect to this order within a period of twelve (12) weeks from the date of receipt of a copy of this judgment.

22. Accordingly, this Writ Appeal is partly allowed. There shall be no order as to costs.

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

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SD/-M. RAMANA KRISHNA
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad, State of Telangana.
2. The Director of Municipal Administration, State of Telangana, Hyderabad.
3. The Commissioner, Adilabad Municipality, Adilabad.
4. One CC to SRI K.RAMA SUBBA RAO, Advocate [OPUC]
5. One CC to SRI RAMESH CHILLA, SC FOR MCPL [OPUC]
6. Two CCs to GP FOR MCPL ADMN & URBAN DEV., High Court for the State of Telangana at Hyderabad [OUT]
7. Two CD Copies

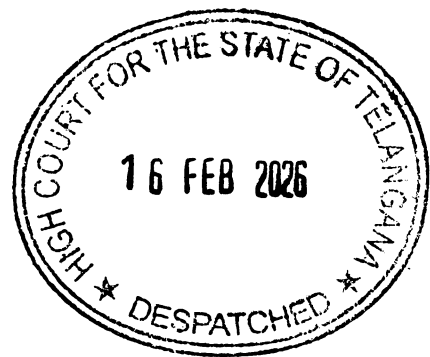
BSR
BS pma.

HIGH COURT

DATED: 22/01/2026

JUDGMENT

WA.No.83 of 2026



**PARTLY ALLOWING THE WRIT APPEAL,
WITHOUT COSTS**

⑩ pma.
10/2/26.