

J.Sudarshan Reddy vs The State Of Telangana on 21 May, 2026

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HONOURABLE SMT. JUSTICE T. MADHAVI DEVI

WRIT PETITION NO.15202 OF 2019

DATED : 21.05.2026

Between:

J. Sudarshan Reddy

... Petitioner

AND

The State of Telangana, rep. by its Principal
Secretary, Agriculture & Cooperation Department,
Secretariat, Hyderabad and another

... Respondents

ORDER

In this Writ Petition, the petitioner is seeking a Writ of Mandamus declaring the action of the respondents in withholding the retirement benefits of the petitioner, i.e., gratuity and leave encashment benefits, as illegal, arbitrary and unconstitutional and also as contrary to the Payment of Gratuity Act, 1972 and consequently to direct the respondents to release the gratuity and leave encashment amounts to the petitioner along with interest @ 18% per annum from 03.07.2014 till the date of payment and to pass such other order or orders.

2. Brief facts leading to the filing of this Writ Petition are that the petitioner was appointed in the 2nd respondent Corporation on 23.02.1989 as Material Assistant and thereafter, he was promoted as Seeds Officer in the year 1991 and was also granted subsequent promotions. It is submitted that while the petitioner was working as District Manager, a charge memo was given to the petitioner on 11.10.2012 framing two charges against the petitioner. Charge No.1 was that the petitioner has failed to recover huge outstanding dues and Charge No.2 was that the petitioner did not properly supervise the activities of the petitioner's subordinates which resulted in shortage of seeds. The petitioner claims to have submitted his explanation on 05.11.2012 along with relevant material in support of his explanation pointing out that there was no dereliction of duty or lack of supervision by him as alleged in the charge memo. It is submitted that thereafter, an amended charge memo was issued on 08.11.2013 seeking to amend Charge No.2. The petitioner claims to have submitted further explanation on 06.12.2013 pointing out that since the petitioner is the supervising authority, he cannot be held responsible for any shortage of seeds and that it would be only the store keeper who would be responsible. It is submitted that the petitioner has retired from service on 03.07.2014 on attaining the age of superannuation and according to him, there was no power under the rules of

the Corporation to continue the enquiry against any employee after retirement. It is submitted that since there was no misconduct on the part of the petitioner, he appeared before the enquiry officer and submitted his explanation on 29.12.2016 and thereafter, the enquiry officer appears to have submitted his report on 01.03.2017 in which the explanation of the petitioner has not been taken into account. Thereafter, on 14.03.2017, the petitioner's explanation was called for on the said enquiry report and the petitioner has submitted his explanation and on the ground that the enquiry is pending against the petitioner, the petitioner has not been given the benefits of gratuity and leave encashment. Challenging the same, the present Writ Petition has been filed submitting that this Court, while deciding the case of a similar employee who was involved in more serious charges and the enquiry has been conducted therein, has held that the provisions of the Payment of Gratuity Act, 1972 would prevail over any Service Rules which bars non-payment of gratuity to an employee.

3. Learned counsel for the petitioner, while reiterating the submissions made in the writ affidavit, has placed reliance upon the decision of this Court in the case of Mohd. Kareem Vs. The State of Telangana rep. by its Principal Secretary, Industries and Commerce Department, Hyderabad and another¹, wherein the petitioner was a store keeper in the 2nd respondent Corporation and this Court has observed that the Discipline and Appeal Rules of the 2nd respondent Corporation do not permit continuation of the disciplinary proceedings post retirement. After considering the judgments of the Hon'ble Supreme Court in the case of Bhagirathi Jena Vs. Board of Directors, O.S.F.C. and others (AIR 1999 SC 1841) and also in the case of Dev Prakash Tewari Vs. Uttar Pradesh Cooperative Institutional Service Board, Lucknow and others [(2014) 7 SCC 260] and in the case of State of Jharkhand and others vs. Jitendra Kumar Srivastava and another [(2013) 12 SCC 210], this Court has observed that unless and until the Discipline and Appeal Rules authorise the respondents to continue the disciplinary proceedings after the retirement of the employee and the Discipline and Appeal Rules also authorise the I.A.No.1 of 2021 in W.P.No.16993 of 2020 and W.P.No.16993 of 2020 dt.30.08.2024 respondent authorities to recover the loss from the retirement benefits of the employee, the same cannot be done. It is submitted that this Court had directed refund of the withheld amount to the petitioner therein along with interest. He also placed reliance upon the judgment of the Hon'ble Supreme Court in the case of M. Raghavelu Vs. Govt. of A.P. and another² for the proposition that the Supervisor cannot be found to be guilty of the same charge on the same evidence as the employee against whom the charge has been made. He also placed reliance upon the latest decision of the Hon'ble Supreme Court in the case of Kadir Khan Ahmed Khan Pathan Vs. The Maharashtra State Warehousing Corporation and others³ in support of his above contentions. A copy of A.P. State Seeds Development Corporation Limited Services Rules is also filed before this Court.

4. Learned counsel for the 2nd respondent, on the other hand, relied upon the averments made in the counter affidavit and also on the additional material papers filed by him with regard to merits of the case. He also relied upon the judgment of the Hon'ble Supreme Court in the (1997) 10 SCC 779 2026 INSC 16 : Civil Appeal No. of 2026 arising out of Special Leave Petition (C) No.10896 of 2021 dt.06.01.2026 case of V. Padmanabham Vs. Govt. of A.P. and others⁴ in support of the contention that despite superannuation of the appellant therein, the departmental proceeding which were pending against him must be held to be continuing in terms of the provisions of the Andhra Pradesh Pension Code and thus submitted that there is no legal impediment in imposing any punishment

withdrawing the whole or part of the pension so as to enable the State to recover the amount which it suffered owing to the acts of omission and commission on the part of the appellant. It is submitted that in this case, the petitioner has caused huge financial loss to the 2nd respondent Corporation and therefore, the Writ Petition should be dismissed with costs.

5. The petitioner has also filed a reply affidavit stating that the judgment of the Hon'ble Supreme Court in the case of V. Padmanabham Vs. Govt. of A.P. and others (4 supra) is distinguishable on facts as it relates to a Government Servant and the Revised Pension Rules are applicable therein.

6. Having regard to the rival contentions and the material on record, this Court finds that the charge memo was issued to the petitioner during (2009) 15 SCC 537 the course of his employment and even the enquiry officer was appointed. However, the enquiry was not concluded during the course of his service, but was carried on subsequently and it has not yet been concluded. On perusal of the service rules filed by the petitioner, they do not permit initiation or continuation of the disciplinary proceedings post retirement. Taking the same into consideration, this Court in Mohd. Kareem Vs. The State of Telangana rep. by its Principal Secretary, Industries and Commerce Department, Hyderabad and another (1 supra) has held as under:

"8. In the case of Bhagirathi Jena Vs. Board of Directors, O.S.F.C. and others (1 supra), the Hon'ble Supreme Court has observed as under:

"5. It will be noticed from the abovesaid regulations that no specific provision was made for deducting any amount from the provident fund consequent to any misconduct determined in the departmental enquiry nor was any provision made for continuance of the departmental enquiry after superannuation.

6. In view of the absence of such a provision in the abovesaid regulations, it must be held that the Corporation had no legal authority to make any reduction in the retiral benefits of the appellant. There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral benefits. Once the appellant had retired from service on 30-6-1995, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant.

In the absence of such an authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement.

7. Learned Senior Counsel for the respondent placed reliance on the judgment of this Court in Takhatray Shivadattray Mankad v. State of Gujarat [1989 Supp (2) SCC 110 : 1991 SCC (L&S) 927 : (1990) 12 ATC 692] . It is true that that was a case of imposing a reduction in the pension and gratuity on account of unsatisfactory service of the employee as determined in an enquiry which was extended beyond the date of superannuation. But the above decision cannot help the respondent inasmuch as in

that case there was a specific rule namely Rule 241-A of the Junagadh State Pension and Parwashi Allowance Rules, 1932 which enabled the imposition of a reduction in the pension or gratuity of a person after retirement. Further, there were rules in that case which enabled the continuance of the departmental enquiry even after superannuation for the purpose of finding out whether any misconduct was established which could be taken into account for the purpose of Rule 241-A. In the absence of a similar provision with the regulations of the respondent-Corporation, the above judgment of Mankad case [1989 Supp (2) SCC 110 : 1991 SCC (L&S) 927 : (1990) 12 ATC 692] cannot help the respondent."

9. In the case of Dev Prakash Tewari Vs. Uttar Pradesh Cooperative Institutional Service Board, Lucknow and others (2 supra), the Hon'ble Supreme Court followed its earlier decision in the case of Bhagirathi Jena Vs. Board of Directors, O.S.F.C. and others (1 supra) to hold that after the employee has retired from service, there was no authority vested with the respondents for continuing the disciplinary proceedings for the purpose of imposing any reduction in the retiral benefits payable to the employee, the enquiry had lapsed and the petitioner was entitled to get full retiral benefits. For the purpose of ready reference, the relevant para i.e., para 8 is reproduced as under:

"8. Once the appellant had retired from service on 31-3-2009, there was no authority vested with the respondents for continuing the disciplinary proceeding even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such an authority it must be held that the enquiry had lapsed and the appellant was entitled to get full retiral benefits."

10. In the case of State of Jharkhand and others Vs. Jitendra Kumar Srivastava and another (3 supra), it was held as under:

"16. The fact remains that there is an imprimatur to the legal principle that the right to receive pension is recognised as a right in "property". Article 300-A of the Constitution of India reads as under:

"300-A. Persons not to be deprived of property save by authority of law.--No person shall be deprived of his property save by authority of law."

Once we proceed on that premise, the answer to the question posed by us in the beginning of this judgment becomes too obvious. A person cannot be deprived of this pension without the authority of law, which is the constitutional mandate enshrined in Article 300-A of the Constitution. It follows that attempt of the appellant to take away a part of pension or gratuity or even leave encashment without any statutory provision and under the umbrage of administrative instruction cannot be countenanced.

17. It hardly needs to be emphasised that the executive instructions are not having statutory character and, therefore, cannot be termed as "law" within the meaning of the aforesaid Article 300-A. On the basis of such a circular, which is not having force of law, the appellant cannot

withhold even a part of pension or gratuity. As we noticed above, so far as statutory Rules are concerned, there is no provision for withholding pension or gratuity in the given situation. Had there been any such provision in these Rules, the position would have been different."

11. Therefore, it is clear that unless and until, the Discipline and Appeal Rules authorise the respondents to continue the disciplinary proceedings after the retirement of the employee and the Discipline and Appeal Rules also authorise the respondent authorities to recover the loss from the retirement benefits of the employee, the same cannot be done.

12. The judgments relied upon by the respondents in their counter are distinguishable on facts. In the case of V. Padmanabham Vs. Government of Andhra Pradesh and others (5 supra), the Hon'ble Supreme Court was considering the case of the petitioner therein against whom departmental proceedings were proceeded with under Rule 9(2) of Andhra Pradesh Pension Code and as a large sum of money had to be recovered from the appellant therein, it was held that delay alone in the case should not be held to be fatal in the matter of continuing the departmental proceedings. In the case of U.P. State Sugar Corporation Ltd. and others Vs. Kamal Swaroop Tondon (6 supra) which is relied upon by the 2nd respondent in its counter affidavit, the show-cause notice for removal from service was issued before the date of retirement and therefore, it was held that in the case of retirement, master and servant relationship continues for grant of retiral benefits. In the case before this Court, the enquiry report was submitted after the retirement of the petitioner and punishment order has been also passed after his retirement. Further, as seen from the enquiry report, no witnesses have been examined and no documents, except for the internal audit report, have been referred to. The internal audit seems to have been conducted behind the back of the petitioner. Therefore, the impugned order is in violation of principles of natural justice as it is not in accordance with the Discipline and Appeal Rules of the Andhra Pradesh State Seeds Development Corporation Limited. The impugned order also does not mention the basis for arriving at the financial loss of Rs.10,66,407/-.

13. In view of the same, this Court is inclined to set aside the impugned order dt.18.08.2020 and directs the respondents to refund the withheld amount of Rs.5,68,000/- to the petitioner expeditiously, i.e., within a period of three months from the date of receipt of a copy of this order, failing which the petitioner shall be eligible interest at the rate of 6% per annum from such expiry of the period till the date of payment."

7. Further, the Hon'ble Supreme Court in the case of Kadir Khan Ahmed Khan Pathan Vs. The Maharashtra State Warehousing Corporation and others (3 supra) has held as under:

"28. At this juncture, it is apposite to refer the judgment in 'Bhagirathi Jena Vs. Board of Directors, O.S.F.C. and Others' (1999) 3 SCC 666, wherein this Court while dealing the issue of initiation of departmental enquiry, in absence of specific provision and its continuance after retirement, had observed as thus:

"7. In view of the absence of such a provision in the abovesaid regulations, it must be held that the Corporation had no legal authority to make any reduction in the retiral

benefits of the appellant. There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral benefits. Once the appellant had retired from service on 30-6-1995, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such an authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement."

29. In 'Anant R. Kulkarni Vs. Y.P. Education Society and Others' (2013) 6 SCC 515, this Court inter-alia dealing with a similar question as to under what circumstances enquiry can be conducted against the delinquent employee who has retired on reaching the age of superannuation, observed as thus:30. After analyzing Rule 110 of 1992 Regulations and Rule 27 of 1982 Pension Rules and also considering the averments made in additional affidavit filed as directed on 11.11.2025, the Corporation was unable to produce a conscious decision of the Board regarding adoption of Pension Rules and the circumstances explaining the situation to apply the same rules as applicable to the employees of the Government of Maharashtra to the employees of the Corporation in the matter of institution and continuance of the disciplinary proceedings post retirement. In light of the above discussions and in view of the judgments referred hereinabove, the irresistible conclusion can be drawn that the Corporation had no jurisdiction to institute the departmental proceedings against the appellant for the alleged misconduct and to direct recovery against him applying 1982 Pension Rules. As such the questions as posed hereinabove are answered in favour of the appellant against the Corporation.

31. Accordingly, the present appeal is allowed and the impugned order passed by the High Court is set-aside. The impugned departmental proceedings against the appellant are also hereby quashed, and the Corporation is directed to release all the retiral benefits to the appellant within a period of eight weeks. The recovery, if any, made from the appellant in the interregnum, shall also be refunded within the period as specified."

8. In view of the same and that in the counter affidavit of the 2nd respondent, there is no reference whatsoever to the Discipline and Appeal Rules enabling the respondent Corporation to continue the proceedings against the petitioner post retirement, this Court is of the opinion that the disciplinary proceedings against the petitioner could not have been continued post retirement in the absence of rules permitting therefor. Therefore, the respondents are directed to release the gratuity and leave encashment amounts to the petitioner immediately and the petitioner shall be entitled to interest thereon at the rate of 6% per annum from the date of filing of this Writ Petition till the date of payment.

9. The Writ Petition is accordingly allowed. No order as to costs.

10. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.

JUSTICE T. MADHAVI DEVI Date: 21.05.2026 Svv