

## **Registrar, Special Court, A.P. Land Grabbing (Prohibition) Act, Hyderabad Vs Chief Secretary, Government of A.P., Hyderabad and Others**

**Court:** Andhra Pradesh High Court

**Date of Decision:** April 25, 2002

**Citation:** (2002) 3 ALD 453 : (2002) 4 ALT 105(1) : (2002) 4 ALT 105

**Hon'ble Judges:** Ar. Lakshmanan, C.J; Gopalakrishna Tamada, J

**Bench:** Division Bench

**Advocate:** Government Pleader for Services-II, for the Respondent

### **Judgement**

Ar. Lakshmanan, C.J.

Perused the representation of the Registrar, Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982

(hereinafter referred to as "the Special Court"), dated 13-2-2002. The said representation was made (i) to call for the records from the

Government in the Finance Department pertaining to the pay scales of the Chairman and Members of the Special Court; (ii) to direct the

Government to sanction scale of pay of Rs. 22,400-600-26,000/- per mensem to the post of the Member of the Special Court by amending Rule

3 of the Andhra Pradesh Land Grabbing (Prohibition) Special Court Chairman and Members (Conditions of Services) Rules, 1996 (hereinafter

referred to as "the Special Court Rules"); and (iii) to quash the notification issued by the Government of Andhra Pradesh in G.O. Ms. No. 629,

Revenue (A&R) Department, dated 12-8-1999 by which Rule 3 of the Special Court Rules has been amended. For appreciation of the case the

relevant facts can be noticed as under:

2. In exercise of the powers conferred by Sub-section (1) of Section 16 of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982

(hereinafter referred to as "the Act") the Special Court Rules were issued in G.O. Ms. No. 176, Revenue (A&R) Department, dated 13-2-1996

in consultation with the Finance Department as well as the Law Department. Prior to the issuance of the said Special Court Rules the Chairman

and Members of the Special Court received the last pay drawn by them in their earlier post. Therefore, it was considered necessary to evolve a

common pay scale for Judicial as well as Revenue Members without any reference to the pay scale applicable to the post last held by them and

accordingly the Special Court Rules in G.O. Ms. No. 176, dated 13-2-1996 were issued by the Government of Andhra Pradesh as stated above.

The source of recruitment of the Chairman and the Members of the Special Court as well as the Chairman and Members of the A.P.

Administrative Tribunal is one and the same i.e., the Chairman of the Tribunal and the Chairman of the Special Court shall be a person who is or

has been a Judge of the High Court. The Administrative Members of the Tribunal and the Revenue Members of the Special Court are drawn from

the retired or serving members of the Indian Administrative Service. Likewise, the Judicial Members of the Tribunal and the Special Court are

drawn from the Higher Judicial Service of the State. The Special Court has original as well as appellate jurisdiction whereas the Tribunal has no

appellate jurisdiction. The duties of the Chairman and Members of the Special Court as well as the Tribunal are identical. The A.P. Administrative

Tribunal (Salaries and Allowances and Conditions of Service of Chairman and Vice-Chairman and Members) Rules, 1989 (hereinafter referred to

as "the Tribunal Rules") have not been amended or altered at any time to the disadvantage of the Chairman and Members of the Tribunal. Prior to

the amendment of Rule 3 of the Tribunal Rules the Members of the Tribunal were drawing the scale of pay of Rs. 7300-200-7500-250-8000. In

exercise of the powers conferred by Sections 35 and 36A of the Administrative Tribunals Act, 1985 the Tribunal Rules were amended by reason

of A.P. Administrative Tribunal (Salaries and Allowances and Conditions of Service of Chairman and Vice-Chairman and Members) Amendment

Rules, 1998 whereby Rule 3 of the Tribunal Rules was also amended. The notification amending the Tribunal Rules was republished by the

Government of Andhra Pradesh in G.O. Ms. No. 421, General Administration (SPF.B) Department, dated 16-10-1998. The amended Rule 3 of

the Tribunal Rules reads as follows:

PAY: The Chairman shall be entitled to pay of Rs. 26,000/- plus a special allowance of Rs. 1,000/- per mensem, Vice-Chairman shall be entitled

to pay of Rs. 26,000/- per mensem and a Member shall be entitled to pay in the scale of Rs. 22,400-600-26,000/- per mensem.

Provided .....drawn or to be drawn by him.

3. However, the Government of Andhra Pradesh amended Rule 3 of the Special Court Rules by the impugned G.O. Ms. No. 629, Revenue

(A&R) Department, dated 12-8-1999 to the following effect:

PAY: The Chairman shall receive a pay of Rs. 26,000/- plus special pay of Rs. 1,000/-per mensem and a Member shall receive pay which he

drew previously or is drawing at the time of appointment.

4. It is stated that the scales of pay of the members of the Indian Administrative Services have been revised by the Central Government and the

pay scale of Rs. 7,300-200-7,500-250-8,000/- is revised to Rs. 22,400-600-26,000/-. Therefore, by virtue of the amendment to Rule 3 of the

Special Court Rules in G.O. Ms. No. 629, dated 12-8-1999 the Judicial Members of the Special Court are drawing less scales of pay than the

Revenue Members. It is contended that though the judicial as well as Revenue Members are discharging the same functions, but there is no parity

in their scales of pay. The Registrar of the Special Court has also referred to the scales of pay applicable to the Chairman and Members of the

Special Court under Indian Electricity (Andhra Pradesh Amendment) Act, 2000 in order to highlight the disparity in the scale of pay applicable to

the Members of the Special Court. It is relevant to notice Rule 3 of the Andhra Pradesh Indian Electricity Special Court Chairman and Members

(Conditions of Services) Rules, 2000 which reads as under:

PAY: The Chairman shall be entitled to draw a pay on par with the Judge of the High Court and a Member shall be entitled to a pay in the scale of

Rs. 22,400-600-26,000 per mensem.

5. The existence of disparity in the scales of pay is sought to be demonstrated by the respective pay being drawn by Sri R Hrudayaranjan and Sri

M.K.R. Vinayak who belonged to the Indian Administrative Service and who are appointed as Revenue Members of the Special Court. It is

stated that while demitting office in the post last held by Sri R. Hrudayaranjan he was drawing pay of Rs. 23,000/- and therefore his pay as

Revenue Member of the Special Court was fixed at Rs. 23,000/- whereas Sri M.K.R. Vinayak was drawing pay of Rs. 20,900/- in the post last

held by him, his pay in the Special Court was fixed at Rs. 20,900/- Though they discharge the same functions, however, their pay is different.

6. The Registrar of the Special Court, therefore, states that there is disparity in the scales of pay of the Members of the Special Court compared to

scales of pay of the Members of the Andhra Pradesh Administrative Tribunal and of the Special Court under the Indian Electricity (Andhra

Pradesh Amendment) Act, 2000. Therefore, the Registrar of the Special Court states that the impugned Government Order is discriminatory and

suffers from the vice of Article 14 of the Constitution of India.

7. It is stated by the Registrar of the Special Court that inspite of repeated requests by way of letters including the letter dated 4-9-1998

addressed by the Chairman of the Special Court the Government of Andhra Pradesh in the Finance Department negated the proposal of the

Special Court for sanction of scale of pay of Rs. 22,400-600-26,000/- per mensem to the Members of the Special Court. It appears that the

Government of Andhra Pradesh is of the opinion that the scale of pay of the Additional Secretary to the Government of India cannot be given to

the Members of the Special Court.

8. It is stated that since the Special Court is not having funds to engage an advocate and to file writ petition in this Court questioning the action of

the Government of Andhra Pradesh in the Finance Department in not accepting the proposal of the Special Court to give scale of pay of Rs.

22,400-600-26,000/- per mensem to its Members, the present representation has been made praying that the same may be taken up as a writ

petition by this Court. When the representation was received by this Court, this Court directed the Registry of this Court to treat the same as a writ

petition and on 20-2-2002 ordered notice to the respondent Nos. 1 to 4 herein. Pursuant to the above notice the Government of Andhra Pradesh

now issued an amendment to Rule 3 of the Rules with effect from 13-2-1996 in G.O. Ms. No. 207 Revenue (A&R) Department, dated 20-4-

2002 in exercise of the powers conferred by Sub-section (1) of Section 16 of the Act. By the said notification the following is substituted as Rule 3

of the Rules:

PAY: The Chairman shall receive a pay of Rs. 26,000/- plus Special Pay of Rs. 1,000/-per mensem and a Member shall receive pay in the scale

of pay of Rs. 22,400-600-26,000/- or such scales of pay as are applicable to the Chairman and Members of the Andhra Pradesh Administrative

Tribunal as amended from time to time.

Provided that in the case of an appointment as Chairman or as the case may be a Member of a person who has retired as a Judge of a High Court

or who has retired from service under the Central Government or a State Government and who is in receipt of or has received or has become

entitled to receive any retirement benefits by way of pension and/or gratuity, or other forms of retirement benefits, the aforementioned pay shall be

reduced by the gross amount of pension and pension equivalent of gratuity or any other form of retirement benefits, if any, drawn or to be drawn

by him.

9. The above Government Order was issued by order and in the name of the Governor of Andhra Pradesh and copies of the same are marked to

the Chairman and the Registrar of the Special Court and others including the Registry of this Court.

10. Now that the Government Order has been issued pursuant to the representation dated 13-2-2002, we direct the Government of Andhra

Pradesh i.e., the respondents herein to give effect to G.O. Ms. No. 207 Revenue (A&R) Department, dated 20-4-2002 forthwith. The writ

petition is ordered accordingly.