

**THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

**WRIT PETITION No. 8318 of 2023**

**ORDER:**

The writ petition is filed under Article 226 of the Constitution of India for the following relief:

*“...to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, to declare the action of the respondents in with-holding/recovery an amount of Rs.2,15,717/- from the petitioner's retirement gratuity that too after their retirement as excess paid under G.O.Ms.No.330, Education Department, Dated 10.08.1983 in violation of the full bench judgement of the Hon'ble High Court in W.P.No.21457 of 2004 reported in 2010 4 ALT 145 and State of Punjab and others Vs. Rafiq Masih reported in 2015 4 SCC 334 and as per the Division Bench of Hon'ble Telangana High Court in W.P.No.32896 of 2013 and Batch dated 24.02.2022 is as illegal, arbitrary and unconstitutional and consequently declare that the petitioner is entitled for repayment of the recovered/with-held gratuity amount of Rs.2,15,717/- as per to the Division Bench orders of this Hon'ble Court passed in W.P.No.33315 of 2013 Dated 22.06.2020 and Division Bench orders in W.P.No.31507 of 2013 an Batch and Division Bench orders in W.P.No.33594 of 2013 dated 06.04.2021 along with interest @ 12% on delay payment from the date on which the gratuity becomes payable till such payment is made and to pass such other order or orders...” (in verbatim)*

2. Heard learned counsel for the petitioner, learned Government Pleader for Services-III appearing for respondent Nos.1, 4 & 7, learned standing counsel appearing for the 2<sup>nd</sup>

respondent and learned Government Pleader for Finance and Planning appearing for respondent Nos.3, 5 & 6.

3. Learned counsel for the petitioner would submit that the issue involved in this Writ Petition is squarely covered by the order dated 22.06.2020 passed by the Division Bench of this Court in W.P.No.33315 of 2013 and requested to pass a similar order in this writ petition also. The operative portion of the said order is as follows:

***“....., this Court deems it appropriate to dispose of the writ petition directing the petitioners – Government to process and send the necessary final pension proposals of the 1<sup>st</sup> respondent – applicant without any recovery, to the 3<sup>rd</sup> respondent Accountant General, within a period of eight weeks from today if not already processed, and if any amount is recovered, the same shall be returned to the applicant.”***

4. Learned Government Pleader for Services-III disputed the submission made by learned counsel for the petitioner and submitted that there is delay in filing the present writ petition and hence, the petitioner is not entitled for the relief sought for in the writ petition.

5. In view of the settled law, the petitioner is entitled for the same relief as admitted by the Division Bench as well as Single Benches of this Court in many cases.

6. In view of the same, for the reasons alike in the aforesaid order, this Writ Petition is also disposed of in terms of the order dated 22.06.2020 passed by the Division Bench of this Court in W.P.No.33315 of 2013. There shall be no order as to costs.

7. Registry is directed to attach a copy of the order dated 22.06.2020 passed by the Division Bench of this Court in W.P.No.33315 of 2013, to this order.

Consequently, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

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**VENKATESWARLU NIMMAGADDA, J**

18<sup>th</sup> April, 2023.  
cbn

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

**C-370**

WRIT PETITION No. 8318 of 2023  
(disposed of)

18<sup>th</sup> April, 2023

**CBN**