

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**TUESDAY, THE FIRST DAY OF DECEMBER TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.38892 of 2015

Between:

Yeruva Chinnamma,
W/o. Alphones Reddy,
Aged about 49 years, Occ: Attender
Against Record Assistant present
Promoted as Junior Assistant in
St. Ann's College Women (Aided),
Santhoshnagar Colony, Mehdipatnam,
Hyderabad – 500 028, R/o.H.No.12-2-823/B/3,
(Pulse House) Ram Murthy Colony,
Mehdipatnam, Hyderabad.

.. Petitioner

AND

The State of Telangana,
Rep. by its Principal Secretary for
Higher Education Department,

Secretariat, Hyderabad & 5 others

.. Respondents

The Court made the following:

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ORDER:

The 6th respondent college is an aided institution. In the orders issued in G.O.Ms.No.26, Education (CKI-I) Department, dated 22.11.1991, certain aided posts were sanctioned to the 6th respondent college. As a consequence to the sanctioning of posts, the staff working in various cadres were appointed to the aided posts vide proceedings of the Director of Collegiate Education, dated 28.03.1991. The petitioner was also appointed as Attender against the post of Record Assistant. Subsequently, it has come to the notice of the competent authority that a false representation was made by the Principal of the 6th respondent college and a wrong appointment was granted in favour of the petitioner against an aided post. The said appointment was reviewed and by proceedings, dated 10.04.1997, the earlier proceedings were cancelled. However, on humanitarian grounds, the petitioner is appointed as a fresh

candidate as Attender into a Grant-in-Aid post with effect from 03.04.1997 and the earlier orders were modified accordingly. As a consequence to the said orders, the petitioner continued as Attender all alone. Her pay fixation and other benefits were granted treating her as an Attender appointed to the aided post with effect from 03.04.1997. Based on the seniority assigned to her, taking the date as 03.04.1997 the petitioner was also granted promotion as Junior Assistant with effect from 01.04.2015. After such promotion, the petitioner now started agitating on the issue of alteration of her date of appointment as Attender to the aided post.

2. Learned counsel for the petitioner contends that such alteration was erroneously made. The petitioner was not put on notice and she was not granted opportunity of hearing before altering such appointment. Thus, the order, dated 10.04.1997, is *ex facie* illegal and the same was passed without due opportunity of hearing. Learned counsel further contends that the petitioner though being a senior is now drawing far less pay as compared to her juniors. Her immediate junior is now drawing a pay of Rs.50,245/-, whereas the petitioner is drawing Rs.36,872/-. This is *ex facie* contrary to the mandate of Articles 14 and 39(d) of the Constitution of India and vitiates on the touch stone of equality clause enshrined in Article 14 of the Constitution of India.

3. As seen from the averments made in the affidavit filed in support of the writ petition and the relevant documents concerning the case of the petitioner, it is seen from the orders, dated 10.04.1997, that having found that erroneously the petitioner was admitted to Grant-in-Aid post with effect from 18.08.1989, on a wrong representation made by the then Principal and Correspondent, the proceedings appointing the petitioner in Grant-in-Aid post with effect from 18.08.1989 was cancelled. However, taking a lenient view in favour of the petitioner, the petitioner was appointed as a fresh candidate as Attender with effect from 03.04.1997. In terms thereof, the petitioner commenced her service as an Attender into an aided post from that date. This order has become final and all her service conditions are regulated all along in terms thereof and also granted promotion.

4. The petitioner now seeks to assail the order, dated 10.04.1997, i.e., after lapse of more than 18 years. No satisfactory explanation is forthcoming in the affidavit filed in support of the writ petition as to why the petitioner has not agitated about this issue so long and filed the present writ petition. The only explanation offered by learned counsel is if the petitioner contested the issue earlier, the authorities would have denied promotion to the petitioner and, therefore, the petitioner waited till the promotion is granted and started agitating about the grievance after securing promotion. This is not a valid ground to justify inordinate delay in instituting the writ petition. Further more, as seen from the order, dated 10.04.1997, it was only on humanitarian grounds the petitioner was appointed prospectively. If denial of past service and appointing him afresh was illegal, he ought to have agitated soon thereafter.

5. The question of comparison of scales of pay and demand to grant pay protection would arise only if a junior doing similar nature of work is erroneously drawing more pay than the petitioner. In the instant case, it is not the case of the petitioner that taking the date of appointment as Attender from 03.04.1997, a junior to the petitioner is drawing more pay, notwithstanding the other special circumstances concerning other employees. Thus, merely because another person is drawing more pay cannot be a ground to entertain the writ petition and to grant the relief as sought for by the petitioner on an issue that relates back to 10.04.1997, i.e., more than 18 years. Thus, the claim in the writ petition is hopeless barred by inordinate delay and the writ petition is liable to be dismissed on that ground alone.

6. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 1st December, 2015

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