

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.1538 of 2005

ORDER:

This writ petition was filed assailing the action of the 2nd respondent college in not reinstating the petitioner in service in compliance with G.O.Rt.No.679, Higher Education (CE.II.1) Department, dated 21.09.2004.

The said G.O. was passed by the Government in exercise of appellate powers under the Andhra Pradesh Education Act, 1982. The said appeal was filed by the 2nd respondent college against the order dated 22.03.2003 of the Regional Joint Director of Higher Education, Rajahmundry. By the said order dated 22.03.2003, the order dated 18.07.2002 passed by the 2nd respondent college terminating the services of the petitioner as a lecturer was set aside. However, the second respondent college emerged unsuccessful in its appeal before the Government, as the order of the Regional Joint Director of Higher Education, Rajahmundry, was confirmed and the 2nd respondent college was directed to reinstate the petitioner in service as a lecturer in Botany. The college was also directed to impose the lesser punishment of stoppage of two annual grade increments without cumulative effect upon the petitioner. The period that he

remained out of service was directed to be treated as on leave. This order of the Government, embodied in G.O.Rt.No.679 dated 21.09.2004, was subjected to challenge by the 2nd respondent college before this Court in Writ Petition No.18395 of 2004. The said writ petition was dismissed on 23.11.2004 and aggrieved thereby, the 2nd respondent college preferred Writ Appeal No.153 of 2005.

Smt. K.Rajyalakshmi, learned counsel for the petitioner, fairly stated that pending the appeal, there was an interim order in favour of the 2nd respondent college insofar as the reinstatement of the petitioner in service was concerned. However, the writ appeal was dismissed by a Division Bench of this Court, by order dated 10.10.2011, on the ground that it already stood dismissed against the petitioner herein.

In the light of the afore-stated facts, the order passed by the Government in the appeal, vide G.O.Rt.No.679 dated 21.09.2004, has attained finality. Despite the direction of the Government to impose a lesser punishment upon the petitioner after reinstating him in service, the 2nd respondent college did not choose to do so and kept the petitioner out of service.

Smt. K.Rajyalakshmi, learned counsel for the

petitioner, states that the petitioner attained the age of superannuation on 30.06.2009 during the pendency of the writ appeal. However, as the petitioner not only sought a direction to reinstate him in service pursuant to G.O.Rt.No.679 dated 21.09.2004 before this Court but also sought release of all consequential benefits, his attaining the age of superannuation would not render the writ petition infructuous. As the petitioner was kept out of service owing to the willful and adamant attitude of the 2nd respondent college, which ultimately emerged unsuccessful in its challenge to the order dated 22.03.2003 passed by the primary authority, the Regional Joint Director of Higher Education, Rajahmundry, the petitioner would be entitled to the benefits of the same at least from the date of dismissal of the appeal under G.O.Rt.No.679 dated 21.09.2004.

The writ petition is accordingly allowed to the extent of directing the 2nd respondent college to treat the petitioner as having been reinstated in service from 01.10.2004 and workout his salary, emoluments and other benefits up to the date of his attaining the age of superannuation on 30.06.2009. The 2nd respondent college shall give effect to the lesser punishment imposed upon the petitioner by way of withholding two annual grade increments without cumulative effect and calculate the amount now payable to the petitioner. The amount so

calculated shall be remitted to the petitioner expeditiously and in any event, not later than three months from the date of receipt of a copy of this order.

Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY

KUMAR, J

22nd JULY, 2015.

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