

THE HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT APPEAL No.671 of 2006

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JUDGMENT: (Per Hon'ble Sri Justice Dilip B. Bhosale)

This Writ Appeal is directed against the order dated 06.01.2006 passed in W.P.No.454 of 2006, whereby the appellant's Writ Petition seeking arrears of salary has been dismissed. The relevant observations in the impugned order read thus:

“Though the petitioner had made extensive submissions touching the merits of the matter, this Court is not inclined to deal with the same. It is not in dispute that the second respondent is a private unaided educational institution. It is not amenable to have jurisdiction, in the matter of its relations with the employees. The petitioner does not complain of, infraction of any statutory provisions. The dispute relates to payment of arrears of salary. Even to ascertain this, recording of evidence is necessary. The question of limitation would also become relevant. It is only in suits filed before the Civil Courts, that such questions can be decided, effectively.”

It appears that the appellant was appointed as Assistant Lecturer in the second respondent College, initially between 04.12.1992 and 16.06.1993 on a consolidated salary of Rs.1,800/- per month. She was thereafter continued for some more time i.e., from 12.12.1993 to 23.07.1994, again on a consolidated salary of Rs.2,000/- per month. She was then appointed as temporary Lecturer on 20.10.1994. Thereafter, according to the appellant, on 14.06.1996 she was prevented from discharging her duties. She, therefore, filed an appeal under Section 79 of the Andhra Pradesh Education Act, 1982 (for short, the Act), on 30.12.1996, and the appeal was disposed of by the Director of Technical Education vide order dated 31.10.1998 allowing the appellant to attend the College with immediate effect. That order was ultimately complied with and the appellant was allowed to resume from 20.11.1998. In this view of the matter, in the Writ Petition, the appellant prayed for arrears of salary for the period from 14.06.1996 to 19.11.1998.

As against this, according to the respondent – Management, the appellant did not report to duty from 14.06.1996. In other words, according to the Management, she abstained from her duties from 14.06.1996 since she had lost interest in continuing as Lecturer in the respondent Institution, and therefore, the question of making payment of the arrears of salary, as claimed by her, did not arise.

It has come on record that in the appeal under Section 79 of the Act, the Director of Technical Education did not issue any direction in respect of arrears of salary. The appellant did not challenge the order passed by the Director of Technical Education and simply sought its implementation by way of W.P.No.17550 of 1998. In this backdrop, in our opinion, learned single Judge while disposing of the Writ Petition rightly observed that the Writ Petition involves disputed questions of fact and that the appellant did not complain of infraction of any statutory provisions. Since the dispute relates only to payment of arrears of salary, as rightly observed by the learned single Judge, the appellant ought to have adopted appropriate remedy for recovery of the same.

We find no merit in the Writ Appeal, and the same is accordingly dismissed. The miscellaneous petitions, if any, stand disposed of. No costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

27.01.2015
vs