

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION Nos.38070 & 31913 OF 2013

COMMON ORDER:- (per Hon'ble Sri Justice K.C.Bhanu)

These writ petitions are filed challenging the order, dated 29.7.2013, in O.A.No.2567 of 2013 and order, dated 5.6.2012, in O.A.No.3897 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. Respondent Nos.1 to 67 in W.P.No.38070 of 2013/applicants filed O.A.No.2567 of 2013 before the Tribunal to declare the action of the petitioners herein in stopping the Revised Pay Scales of 2010 without issuing notice to them as illegal and arbitrary and further, to direct the petitioners herein to release Revised Pay Scales of 2010 without issuing notice to them in pursuance of the orders passed by petitioner No.4 herein vide ROC.No.10356/2010/C1/Zone V/GWK, dated 4.11.2010.

3. Respondent No.1 in W.P.No.31913 of 2013/applicant filed O.A.No.3897 of 2012 before the Tribunal to declare the action of the petitioners herein in not releasing 2010 Pay Scales as illegal and arbitrary and further, to direct the petitioners herein to release the Revised Pay Scales – 2010 and also the Revised Pay Scales, which will be made from time to time, and further, direct the petitioners herein to pay the arrears after fixing the 2010 Pay Scales.

4. The Tribunal, upon considering the material on record, disposed of both the aforementioned Original Applications directing the petitioners herein to extend the

Revised Pay Scales – 2010 and release the benefits to the applicants according to Rules within a period of four (4) weeks from the date of receipt of a copy of that order. Challenging the same, Government filed the present writ petitions.

5. Learned counsel representing the learned Additional Advocate General (Andhra Pradesh) appearing for the petitioners herein contended that because the services of the unofficial respondents herein have not been regularised, they are not entitled to the revised pay scales and that is the reason why though they were wrongly given the Revised Pay Scales of 2005 and also 2010, consequently, the same was withdrawn and therefore, they are not entitled to the revised pay scales in terms of the regular pay employees, as their appointment is illegal, and illegality cannot be perpetuated and hence, he prays to set aside the impugned orders.

6. On the other hand, learned counsel appearing for the unofficial respondents in both the writ petitions contended that the issue in question has been settled long back; that by virtue of the order, dated 24.1.2007, in O.A.No.7811 of 2006 and batch, the petitioners were directed to grant the annual grade increments to the unofficial respondents in the time scale wherein their pay was fixed and also to pay arrears and to release the revised pay scales of 2005, and the said order was confirmed by this Court vide order, dated 7.9.2011, in W.P.No.5934 of 2008 and batch, and aggrieved thereby, the petitioners filed S.L.P.(Civil)C.C.No.3998 of 2012 and batch and the same were dismissed by the Apex Court by order, dated 30.4.2012, and the Revised Pay Scales of 2010 were released vide order, dated 4.11.2010, and therefore, when a person was put in the Revised Pay Scales of 2005, he is entitled to the benefit of Revised Pay Scales of 2010 and hence, the writ petitions are devoid of merit and are liable to be dismissed.

7. It is not in dispute before this Court that the unofficial respondents herein were appointed as Nominal Muster Rolls (for short, "N.M.R.") in the then Gajuwaka Municipality, which was later merged in Greater Visakhapatnam Municipal Corporation. They were allowed to draw the minimum time scales with allowances and were extended revised pay scales from time to time whenever the pay scales were being revised by the State Government. When the periodical increments have not been extended to the unofficial respondents, they filed O.A.No.7811 of 2006 and

batch before the Tribunal and those O.As were disposed of on 24.1.2007 wherein a direction was given to the petitioners to grant annual grade increments to all the unofficial respondents in the time scale wherein their pay was fixed and to pay arrears and also to release the revised pay scales of 2005. When the petitioners challenged that order by filing W.P.No.5934 of 2008 and batch, the same were dismissed vide order, dated 7.9.2011. Aggrieved thereby, the petitioners again filed S.L.P.(Civil) C.C.No.3998 of 2012 and batch before the Apex Court and the same were dismissed on 30.4.2012.

8. No doubt, learned counsel representing the learned Additional Advocate General is right in contending that unless the services of the NMRs are regularised, they are not entitled to the revised pay scales, but at the same time, when this Court confirmed the order of the Tribunal that the unofficial respondents are entitled to the revised pay scales of 2005, the said order has become final, as it was confirmed by the Apex Court. Therefore, when the unofficial respondents are entitled to the revised pay scales of 2010, they cannot be stopped. Once they were put in the revised pay scales of 2005, subsequent revised pay scales come into operation and they are entitled to the subsequent revised pay scales. Clause 8 of the Revision of Pay Scales, 2010 issued in G.O.Ms.No.52, Finance (P.C-I) Department, dated 25.2.2010, reads as follows:

“8. The Revised Pay Scales shall apply to –

- a. all employees of the State Government;*
- b. the employees of the Local Bodies and Aided Institutions including Aided Polytechnics, who are in receipt of pay in a regular pay scale in the Revised Pay Scales of 2005; and*

(c) the Work-charged establishment in receipt of pay in a regular pay scale in the Revised Pay Scales of 2005.”

It is not in dispute before this Court that in pursuance of the directions of the

Tribunal, as confirmed by this Court, all the unofficial respondents herein were put in the revised pay scales of 2005. It is only application of those pay scales to the revised pay scales of 2010. Therefore, the Tribunal rightly ordered for implementation of the Revised Pay Scales of 2010 to the unofficial respondents herein as their pay has already been put in the pay scales of 2005. In view of Clause 8 of the Revision of Pay Scales, 2010, the unofficial respondents are entitled to the Revised Pay Scales of 2010. Therefore, the impugned orders need no interference of this Court. The writ petitions are devoid of merit and are liable to be dismissed.

9. The Writ Petitions are, accordingly, dismissed. As the time granted by the Tribunal in the impugned orders to the petitioners herein to extend the Revised Pay Scales-2010 and release the benefits to the unofficial respondents herein according to Rules expired, we direct the petitioners herein to implement the said orders within a period of two (2) months from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous Petitions pending, if any, in these Writ Petitions shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 12.6.2015

AMD

THE HON'BLE SRI JUSTICE K.C.BHANU

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THE HON'BLE MRS JUSTICE ANIS

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