

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

WRIT PETITION NO.16392 OF 2005

DATED 01ST OCTOBER, 2015

Between:

Ch.Hymavathi and others .. Petitioner

and

The Commissioner of Collegiate Education,
Government of Andhra Pradesh, Nampally,
Hyderabad and others .. Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION NO.16392 OF 2005

ORDER

The three petitioners worked in SKR College for Women at Rajahmundry as Lecturers. They retired on different dates in the year 2003. Their common grievance in this writ petition was that the Director of Collegiate Education, Andhra Pradesh, denied their request for encashment of earned leave on the ground that such facility was not extended to private aided colleges. They sought a consequential direction to the respondents to sanction their earned leave encashment as quantified by them.

Despite the lapse of over ten years since the institution of this writ petition, none of the respondents have chosen to file a counter-affidavit.

Sri C.C.S.Sastry, learned counsel for the petitioners, stated that other Lecturers working in private aided colleges were granted the benefit of encashing their earned leave and therefore, the same benefit should be extended to the petitioners. He placed on record the proceedings dated 26.07.2004 of the Director of Collegiate Education, Andhra Pradesh, in this regard.

Perusal of the said proceedings reflects that while dealing with Lecturers working in SKR (W) College, Rajahmundry, the same institution in which the petitioners worked, and CSR Sarma College, Ongole, the Director of Collegiate Education, while reiterating the policy that private aided college employees were not entitled to encashment of the entire earned leave standing to their credit at the time of their retirement, opined that such staff would be eligible to surrender earned leave for 15 days in a year or 30 days, if not surrendered in the previous year, as permitted in G.O.Ms.No.172, Finance & Planning Department, dated 01.07.1974. The Director therefore instructed the Correspondents of both the colleges to pay surrender leave value to the named Lecturers as per their eligibility not exceeding 15 or 30 days, as the case may be, meeting the expenditure from the Management funds, which would be adjusted in the audit provided the leave was sanctioned while they were in service, as a one time sanction. Significantly, some of the named Lecturers retired before the issuance of the proceedings on 26.07.2004. The Lecturers named at Sl.Nos.1, 2 and 5 retired on 30.06.2004 while those at Sl.Nos.3 and 4 retired on 31.03.2004 and 30.04.2004 respectively.

This being the situation, there is no reason as to why the petitioners herein should not be granted the same benefit as was extended to the Lecturers who had already retired by the time of issuance of the proceedings dated 26.07.2004 by the Director of Collegiate Education, Andhra Pradesh.

Sri C.C.S.Sastry, learned counsel, states that none of the petitioners surrendered their leave in the previous year and that they would therefore be entitled to surrender 30 days.

Subject to verification of this aspect, there shall be a direction to the respondents to pay surrender leave value to the petitioners as per their eligibility, not exceeding 30 days if they had not surrendered their leave in the previous year. This amount shall be paid by the third respondent-college from its own funds and the same shall be reimbursed by the State upon due audit.

The writ petition is allowed to the extent indicated above.

Before parting with the case, it is relevant to note that the writ petition was instituted against the Government of Andhra Pradesh and not the State of Andhra Pradesh. This is not in keeping with Article 300 of the Constitution and Section 79

CPC which require the State to be sued in its own name. The office is therefore directed to amend the cause title in so far as the description of the second respondent is concerned by substituting the word 'State' in the place of 'Government'.

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

SANJAY KUMAR, J

01ST OCTOBER, 2015

PGS