HON'BLE SRI JUSTICE R. KANTHA RAO

Writ Petition No.32063 of 2015

ORDER:

Heard Sri P.V.Ranga Reddy, learned counsel appearing for the petitioner, the learned Government Pleader for Higher Education (AP), Sri P. Madhusudhan Reddy, learned standing counsel for the 2nd respondent and Sri K. Jyothi Prasad, learned standing counsel for the 3rd respondent.

2. This writ petition is filed seeking writ of *Mandamus* declaring the G.O.Ms.No.5, Higher Education (U.E.I) Department, dated 20.01.2006 to the extent it stipulates in Clause No.5 that 'the cases which were settled need not be reopened' as illegal and arbitrary and also to declare that the order of the 2nd respondent dated 04.09.2015 in rejecting the request of the petitioner to club the previous service rendered by the petitioner at 3rd respondent University, affiliated College of the 4th respondent, from 1967 to 1980 and the consequential order of the 2nd respondent University as illegal and arbitrary and consequently direct respondents 1 and 2 to consider the service rendered by the petitioner with other institutions viz., 3rd respondent –University affiliated College of the 4th respondent from 1967 to 1980 as effective service for fixation of pension and other retirement benefits and re-fix the pension and pay the arrears forthwith.

3. According to the petitioner, he has completed M.A., Ph.D. in Political Science and initially he joined as Lecturer in the Department of Politics and History in the 4th respondent College, affiliated to the 3rd respondent from 25.07.1966 to 29.12.1980 and afterwards, he joined in the 2nd respondent-University as Lecturer on 30.12.1980 in the Department of Political Science and Public Administration and worked there till 30.04.2005. According to the petitioner, he made several representations to the 1st respondent through the 2nd respondent requesting to add his previous service for the present service, but the 1st respondent kept the decision pending and in the meantime, he attained superannuation on 30.04.2005 and

requested the 2nd respondent to settle the P.F. keeping the right of clubbing the service as the 1st respondent has not taken any decision. The 2nd respondent has settled his retirement benefits under the guise of Rule 2(d) of University Teachers Pension Rules, 1982 by taking the service rendered by him only from December, 1982 to April, 2005 ignoring his previous service of 14 years in the 4th respondent College by considering the said service as 'just service'. In spite of his repeated requests since 31.10.2003 for clubbing of his past service, no decision has been taken by the 1st respondent till 2015. While things stood thus, the 1st respondent Government was pleased to issue G.O.Ms.No.5 Higher Education (U.E.I) Department, dated 20.01.2006 permitting all the Universities to club the past service rendered by the Teachers in other Universities with University service for taking full pensionary benefits with prospective effect, by including a rider to the effect that 'the cases which are already settled need not be reopened' and on account of this order, since there was no clarification with regard to clubbing of his past rendered service in the letter dated 09.02.2004 to the Principal secretary and letter dated 13.07.2004 to the Commissioner of College Education, the 2nd respondent asked for clarification on his letter dated 31.10.2003 and also informed that the pensionary benefits have already paid provisionally and on temporary basis, subject to the out come of the decision of the Government. Surprisingly, the 2nd respondent University on the basis of G.O.Ms.No.5 has passed orders rejecting the request of the petitioner to club the previous service in its letter dated 04.09.2015. According to the petitioner, even as per the correspondence of the 2nd respondent, the case of the petitioner is not considered by the 1st respondent-Government not only on the date of passing of the G.O., but also on the date of his retirement and hence, his case cannot be treated as already settled and as such G.O.Ms.No.5 dated 20.01.2006 squarely applies to his case. According to the petitioner, even before issuing G.O.Ms.No.5 dated 20.01.2006 by the Government, the representation of the petitioner was pending before the 1st respondent for taking decision on the aspect of clubbing his previous service with present service for fixing his pensionary benefits. Hence, the petitioner filed the present writ petition.

4. Learned counsel appearing for the petitioner as well as the learned Government Pleader for Higher Education and the learned standing counsel for the

2nd respondent submits that the issue involved in the present cases is squarely covered by the judgment rendered by the single Judge of this court in WP No.9279 of 2007 dated 22.08.2013.

5. In the above said case, the learned single Judge held as follows:

> "…When the matter was pending before the Government prior to issuance of G.O.Ms.No.5, the case of the petitioner cannot be treated as a 'closed case' and the 1st respondent University is not justified in rejecting the claim of the petitioner by referring to Clause No.5 of G.O.Ms.No.5.
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> Thus, it is clear that the respondents have acted *contra* to the legitimate right of the petitioner and by rejecting the request of the petitioner for clubbing his past rendered service for the purpose of computing his retiremental benefits when the matter was pending before the Government for consideration.
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> In view of the above discussion and for the foregoing reasons, the writ petition succeeds and is, accordingly, allowed. The first respondent University is directed to club the service rendered by the petitioner in the past in 3rd and 4th respondent institutions, i.e., from 01.04.1973 to 05.05.1985 with the service rendered by him in the first respondent University till his retirement for the purpose of calculating his pensionary and retiremental benefits and pay arrears with effect from his date of retirement, i.e., 31.01.2005 and pass appropriate orders within a period of sixty (60) days from the date of receipt of a copy of this order."

6. For reasons mentioned in the aforesaid order, this writ petition is also disposed of in terms thereof. Miscellaneous petitions, if any, in this writ petition, shall stand closed. No order as to costs.

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R. KANTHA RAO, J

Date: 05.10.2015

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HON'BLE SRI JUSTICE R. KANTHA RAO

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