

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.24697 of 2015

ORDER :

Heard the learned counsel for petitioner, the learned Government Pleader for Irrigation (Telangana) and the learned Government Pleader for Irrigation (Andhra Pradesh), for respondents.

2. In this Writ Petition the petitioner is questioning the memo dt.06.07.2015 (for short, 'the impugned memo') issued by 1st respondent stating that her husband, who was an Advocate appearing for the erstwhile State of Andhra Pradesh before the Vamsadhara Water Disputes Tribunal (for short, 'the Tribunal'), and who had sought revision of the fee structure which had been sanctioned vide G.O.Rt.No.479 Irrigation & CAD (IS.EA) Department, dt.18.08.2014 is not entitled to the revised fee from the date of his initial appointment on 16.06.2010, as counsel for the State of Andhra Pradesh before the said Tribunal but only from the date of his representation dt.28.03.2013.

3. The petitioner herein is wife of Late M. Subrahmanyam, an Advocate, who had been appointed by the erstwhile State of Andhra Pradesh to represent the said State before the Tribunal vide G.O.Rt.No.545 Irrigation & CAD (PW.IS) Department dt.26.09.2012. The fee structure to which he would be entitled to was mentioned in the said G.O. Subsequently, another Advocate by name Sri M. Vishnu Vardhan Reddy was also appointed as Advocate for the State of Andhra Pradesh vide G.O.Rt.No.125 Irrigation & CAD (PW.IS) Department

dt.05.03.2013 with a different and higher fee structure.

4. On 28.03.2013, Late Sri M. Subrahmanyam requested fixation of his fee structure on par with that of Sri M. Vishnu Vardhan Reddy. Unfortunately, Late Sri M. Subrahmanyam died on 22.07.2013.
5. Thereafter, G.O.Rt.No.479 Irrigation & CAD (IS.EA) Department dt.18.08.2014 was issued by 1st respondent revising the fee structure of Late Sri M. Subrahmanyam, Advocate on par with Sri M. Vishnu Vardhan Reddy. A representation dt.19.03.2015 was made by petitioner claiming such revised fee structure from the date of his initial appointment in 2010 till his date of death, i.e., till 12.07.2013. Unfortunately, the 1st respondent, under the impugned memo dt.06.07.2015, stated that the said Advocate is not entitled to the revised fee from the date of his appointment, implying that the revised fee would be paid from date of his representation only.
6. In this Writ Petition, the petitioner has questioned the same. Petitioner contends that in view of use of the word "*revision*" in the G.O.Rt.No.479 Irrigation & CAD (IS.EA) Department dt.18.08.2014, it is deemed that her husband is entitled for the modified fee structure on par with Sri M. Vishnu Vardhan Reddy from the date of his appointment as counsel in the said Tribunal i.e., 16.06.2010, and not from the date of his application i.e., 28.03.2013.
7. Sri S.S. Prasad, counsel appearing for G. Purushotham Reddy, counsel for petitioner, relied upon a decision of the Supreme Court in **Workmen of M/s.Indian Turpentine and Rosin Co.,**

Ltd. Bareilly v. M/s. Indian Turpentine and Rosin Co., Ltd., Bareilly. In that case, there was a reference to an industrial tribunal on the question whether existing rates of basic wages given to unskilled, semi-skilled, skilled and highly-skilled workmen employed in an industrial concern needed any revision, and if so with what details and from which date. Although the workmen claimed that scales and grades of different categories of workers should be fixed, the industrial tribunal opined that the reference did not authorize it to fix any scales or grades or wages, but that it related to only increase in the existing minimum wage. This was appealed by the workmen. One of the contentions raised before the Supreme Court was that the Tribunal was wrong in thinking that the reference, as made, did not authorize it to fix time scales or wages and it was urged that under the reference, as made, it has full authority to fix time scale wages to different categories and that it should have done so. It was also contended that the new rates should have been made effective not from 01.12.1957, as argued by the Tribunal, but from an earlier date. The Supreme Court held that if the dispute was only on the question whether the present rates should be increased, it would not have been necessary to use the word "*revision*" and it would have been more proper to say whether the existing rates need to be raised; there were the existing rates of basic wages; assuming that they were not time-scale wages, there is no reason to think that the dispute could only be whether these present rates of wages should be raised; and that the dispute could very well be whether the existing rates should be substituted by time-scale rates. It also held that the word "*revision*" used in the reference aptly includes this question. It observed that whether in the peculiar facts and circumstances

of the case, a time-scale should be introduced or not is for the industrial tribunal to decide, but there is no warrant for saying that the words used in the reference “*whether the existing rates of basic wages ... need any revision...*” do not authorize the tribunal to consider the question at all.

8. This decision therefore indicates that the use of the word “*revision*” suggest that the rates fixed subsequently would take effect from the date of the original commencement of liability to pay the rates, for otherwise, instead of the word “*revision*”, it would be more proper to say that the existing rates need to be raised. It is only in the latter case that the increase in the rate would take effect from the date of such increase.
9. Admittedly, in the present case, G.O.Rt.No.479 Irrigation & CAD (IS.EA) Department dt.18.08.2014 used the words “*revise the fee structure of Sri M. Subrahmanyam, Advocate... .. on par with Sri M. Vishnuvardhan Reddy, Advocate*”. Having regard to the above language used in the said G.O., there cannot be any doubt that the increase in fee structure would apply from the date of his appointment on 16.06.2010 as counsel for the then State of Andhra Pradesh before the said Tribunal. Therefore, the impugned memo cannot be sustained, and it is accordingly set aside, and it is declared that the petitioner is entitled to the fee arrears as revised by above G.O. from date of initial appointment of her husband as Advocate for the State of Andhra Pradesh in the Tribunal.
10. In the present case, not only the State of Andhra Pradesh, but the State of Telangana has also been impleaded.

11. While the learned Government Pleader for Irrigation (State of Telangana) took the stand that the Vaamsadhara river lies in the State of Andhra Pradesh, and post bifurcation of the erstwhile State of Andhra Pradesh, the liability to pay the revised fee lies with the State of Andhra Pradesh, this is disputed by the learned Government Pleader for Irrigation for the State of Andhra Pradesh.
12. However, this *interse* dispute between the two States in this regard need not detain us.
13. The liability to pay the increase in fee as per G.O.Rt.No.479 Irrigation & CAD (IS.EA) Department dt.18.08.2014 with effect from 16.06.2010 shall be discharged by 1st respondent, and it is open to 1st respondent to make a claim in this regard from 2nd respondent and recover it, if permitted by law.
14. Accordingly, the Writ Petition is allowed with the above directions. No order as to costs.
15. The 1st respondent shall comply with the above directions within a period of two (02) months from the date of receipt of a copy of this order.
16. Miscellaneous, petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06.11.2015

Ndr/*

