

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.30816 OF 2013

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This Writ Petition is preferred against the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.8250 of 2011 dated 14.02.2013.

While the first respondent herein was working as a Constable, he applied for the post of Language Pandit (Telugu) Grade-II. On his appointment to the said post, he was asked to undergo a two-year period of apprenticeship and was, thereafter, placed in the regular scales of pay. Contending that he was entitled for pay protection, and be paid his last drawn salary as a Constable, he invoked the jurisdiction of the Tribunal. On O.A.No.5362 of 2003 filed by him being dismissed on 01.03.2005, he filed Rev.M.A.No.652 of 2005. The Tribunal allowed the Rev.M.A. by its order dated 04.07.2005 directing the respondents to accord pay protection to the first respondent as contemplated under F.R.22(a)(iv). Aggrieved thereby, the petitioners herein filed W.P.No.27705 of 2005 before this Court. The said Writ Petition was dismissed on 19.11.2010. On the ground that the petitioners herein had failed to comply with the order of the Tribunal, the first respondent filed C.C.No.260 of 2011 before this Court which was closed by order dated 23.06.2011. Thereafter, the petitioner invoked the jurisdiction of the Tribunal.

In the order under challenge in this Writ Petition, the Tribunal noted that earlier, while allowing Rev.M.A.No.652 of 2005 by its order dated 04.07.2005, the Tribunal had directed the petitioners to fix the pay of the first respondent as per F.R.22(a)(iv) read with G.O.Ms.No.7 dated 17.01.1995 within a period of six weeks; the petitioners had, thereafter, issued proceedings dated 22.06.2011 protecting the pay of

the first respondent; they had, however, denied him monetary benefit for the two-year period of apprenticeship from 01.05.2003 to 01.05.2005; they had thereafter regularised the petitioner's services, and had paid him the pay revision arrears; the very object of protecting the pay of a Government employee was to ensure that he does not suffer financially; accepting the contention of the petitioners would result in the first respondent drawing lesser remuneration, during the two years of his apprenticeship, than what he drew earlier as a Constable; the object of F.R.22(a)(iv) was that, when once the pay in the previous post is protected, it has to be paid from the date the 1st respondent joined as Language Pandit Grade-II on 01.05.2003; he was entitled to the pay which he was drawing as a Police Constable till his services were regularised as Language Pandit Grade-II; and having implemented the earlier order of the Tribunal, protecting the pay of the first respondent, the petitioners ought to have released the monetary benefits due to him for the two-year apprenticeship period also. The O.A. was allowed, and the petitioners herein were directed to release the monetary benefits to the first respondent during his apprenticeship period from 01.05.2003 to 01.05.2005.

Before this Court, learned Government Pleader for Services would contend that the earlier order of the Tribunal only required the petitioners to fix the pay of the first respondent protecting the pay which he drew earlier as a Police Constable; an employee is entitled only to stipend during the period of apprenticeship and not for salary; and, in any event, the first respondent has not challenged the proceedings dated 22.06.2011 whereby he was given the benefit of pay fixation, but was denied monetary benefits for the period from 01.05.2003 to 01.05.2005.

As has been rightly held by the Tribunal, the very object of protecting the pay of a government servant is to ensure that he is paid at least the salary, last drawn by him in his previous post, in the new post to which he is appointed; and, as the first respondent was

appointed as a Language Pandit Grade-II on 01.05.2003, the earlier order in Rev.M.A.No.652 of 2005 dated 04.07.2005, required that he be paid the salary which he drew earlier as a Police Constable, till his services were regularised as Language Pandit Grade II.

While the submission of the learned Government Pleader for Services that an apprentice is entitled only for stipend during the period of apprenticeship is not without merit, the petitioners herein were directed by the Tribunal, in its order in Rev.M.A.No.652 of 2005 dated 04.07.2005, to fix the pay of the first respondent as per F.R.22(a) (iv) read with G.O.Ms.No.7 dated 17.01.1995; and W.P.No.27705 of 2005, filed by the petitioners thereagainst, was also dismissed. The order of the Tribunal in Rev.M.A.No.652 of 2005 dated 04.07.2005 has attained finality. The said judgment inter-parties is binding on the petitioners herein. In the light of the order of the Tribunal in Rev.M.A.No.652 of 2005 dated 04.07.2005, whereby the petitioners herein were directed to fix the pay of the first respondent as per F.R.22(a)(iv) i.e., giving him the benefit of pay protection of the salary last drawn by him as a Police Constable, the petitioners cannot now be heard to contend that the first respondent is not entitled for pay protection during the period of his apprenticeship. We find no error in the order of the Tribunal necessitating interference in proceedings under Article 226 of the Constitution of India.

The other submission of the learned Government Pleader that the first respondent has not challenged the validity of the proceedings dated 22.06.2011 does not also merit acceptance. By the proceedings dated 22.06.2011, the first respondent was informed that he was not eligible for monetary benefit from 01.05.2003 as he worked in a stipendiary post. The period during which the first respondent was an apprentice is from 01.05.2003 to 01.05.2005, and he was denied monetary benefit for the said period. The relief sought for by the first respondent, before the Tribunal, is for payment of the monetary benefits from the date of his appointment as Teacher i.e., from

01.05.2003. While the proceedings dated 22.06.2011 may not have been directly under challenge, the action of the respondents, in denying him monetary benefits from 01.05.2003 to 01.05.2005 as a consequence of the order dated 22.06.2011, was under challenge in the O.A. We see no reason to interfere with the order of the Tribunal on hyper-technicalities.

The Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

4th March 2015

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