

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.24707 of 2006

ORDER:

Petitioner was appointed as Assistant Government Pleader for the Junior Civil Judge's Court, Podili, Prakasam District for a period of three years on case wise basis as per the A.P. Advocates Fee Rules under proceedings Rc.C1/8735/95 dated 21.11.2002 and he took charge of the said Court. Petitioner submits that after completion of the tenure, he submitted a representation on 06.12.2004 to the first respondent stating that the disposal of the civil suits takes not less than 2 to 5 years and in view of the order of appointment, he would not get the fee unless the case is disposed of and sought for payment of Rs.3,000/- per month, as was done in the case of other Assistant Government Pleaders. The request of the petitioner was, however, rejected by the first respondent under Memorandum No.228/L2/2005 dated 25.02.2005 stating that the post of Assistant Government Pleader would be sanctioned on payment of monthly remuneration,

if there are more than 50 cases against the Government. However, in the Court of Junior Civil Judge, Podili, only 16 cases are pending. Accordingly, the petitioner was appointed as Special Counsel to the said Court on payment of case wise fee as per the A.P. Advocates Fee Rules. It was also stated that if outgoing and incoming Special Counsel happens to conduct the same case at different stage, the fee may be divided between the two in proportion to the work done by them. Accordingly, the request of the petitioner was rejected.

Challenging the same, the present writ petition is filed.

2. Learned counsel for the petitioner submits that though the petitioner was appointed for conducting cases on case wise fee basis, in view of the time taken for disposal of the civil cases, it is not equitable to fix the remuneration as per the A.P. Advocates Fee Rules and his appointment

should be treated as one that was made under the A.P. Law Officers (Appointment and Conditions of Service) Instructions, 2000, as per which the petitioner would be entitled for monthly remuneration on par with other Assistant Government Pleaders at Rs.3,000/- per month.

3. Learned Assistant Government Pleader appearing on behalf of respondents submits that though respondents had not filed any counter affidavit, he was instructed to submit that in the case of the Courts having less than 50 cases against the Government, the Special Counsel would be appointed on payment of case wise fee basis and accordingly, the petitioner was appointed. The monthly remuneration of Rs.3,000/- was being paid to the Assistant Government Pleaders till 23.10.2006 where there is pendency of 50 or more cases in the concerned Court. In the instant case, learned Assistant Government Pleader submits that there are only 16 cases pending with the Junior Civil Judge Court, Podili and hence, the petitioner cannot claim on par with the other Assistant Government Pleaders appointed under the instructions, referred to above, issued by the Government in the year 2000.

4. A perusal of the order of appointment clearly shows that the petitioner was appointed for a period of three years on payment of remuneration on case wise basis as per the A.P. Advocates Fee Rules. Petitioner did not protest such appointment and on the other hand, he took charge of the post and after completion of three years, he made a representation to the first respondent seeking payment of honorarium of Rs.3,000/- per month on par with other Assistant Government Pleaders appointed as per the instructions of the Government of the year 2000. In the impugned memorandum dated 25.02.2006, the Government clarified the position stating that in the Courts where more than 50 cases are pending against the Government, the Assistant Government Pleaders are being appointed on monthly honorarium of Rs.3,000/- per month whereas in the case of Junior Civil Judge Court, Podili, there are only 16 cases pending

and hence, petitioner was appointment on payment of case wise fee basis. In view of the said policy decision of the Government and in the absence of any assurance in the order with regard to payment, this Court is not inclined to interfere with the order of the Government dated 25.02.2005.

The writ petition is dismissed. As a sequel, miscellaneous applications, if any, pending shall stand closed. There shall be no order as to costs.

A. RAMALINGESWARA RAO, J

March 10, 2016
DSK