

THE HON'BLE SRI JUSTICE R.KANTHA RAO

Contempt Case No.2034 of 2014

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ORDER :

The petitioners, who are working as Lab Attendants in the Osmania University, filed the writ petition No.2607 of 2003 seeking pay scale of Lab Attendants in the pay scale of Rs.1010-1800, Rs.1875-2750 and Rs.3550-7150 in the revised pay scales of 1986, 1993 and 1999 respectively with all consequential benefits.

Except the Osmania University, none of the respondents contested the writ petition by filing any counter. This Court allowed the writ petition No.2607 of 2003 by order, dated 23-06-2014 granting pay scales as prayed for and directing the respondents to complete the entire exercise within three months from the date of receipt of a copy of the order. After passing of the order, the petitioners submitted a representation on 11-08-2014 to the Osmania University and the same was acknowledged by Osmania University on 27-08-2014. In the representation the petitioners requested the respondents to comply with the directions issued by this Court within the stipulated time. The time

granted to the respondents was expired on 27-11-2014. The respondents herein did not choose to comply with the orders passed by this Court. On that, petitioners filed the present contempt case alleging that respondents wilfully and wantonly disobeyed the orders passed by this Court and they are liable to be summoned and punished for committing contempt of the order passed by this Court on 23-06-2014.

The respondent Nos.1 and 4 filed common counter-affidavit and respondent No.3 filed a separate counter-affidavit. All the respondents in the respective counter-affidavits contended that they did not wilfully disobey the orders of this Court. It is submitted by Respondents that the order passed by this Court in the present writ petition is based on the earlier order, dated 07-08-2009, passed in W.P.No.21341 of 1999. The Government in G.O.Rt.No.649 , Higher Education (UE-I) Department, dated 27-08-2010 implemented pay scales, which was allowed in W.P.No.2607 of 2003 filed by the petitioners herein following the order, dated 07-08-2009 in Writ Petition No.21341 of 1999. However, they admitted in the counter that this Court while allowing the Writ Petition No.2607 of 2003, dated 23-06-2014 specifically mentioned that the petitioners are entitled to the pay scales of Rs.1010-1800, Rs.1875-2750 and Rs.3550-7150 in the revised pay scales of 1986, 1993 and 1999 respectively. Aggrieved

by the order, dated 23-06-2014 in Writ Petition No.2607 of 2013, only Osmania University preferred Writ Appeal No.300 of 2015 and other respondents did not choose to file any writ appeal.

The learned counsel appearing for the appellants-University, on instructions, submitted that the appellants are prepared to implement the order, dated 23-06-2014 in W.P.No.2607 of 2003, passed by the learned Single Judge, impugned in the writ appeal. He submits that the appellants have already addressed a communication to the Government for seeking permission to award the pay scale as per the impugned order.

The learned Government Pleader appearing for the State submits that they will consider the case of the respondents in the instant appeal on par with the petitioners in Writ Petition No.21341 of 1999 and extend the same benefits to them. The statement is recorded and accepted.

In the last paragraph, the Division Bench held as follows :

“In the circumstances, we do not find any reason to keep this writ appeal pending any further. We, therefore, dispose of the writ appeal with direction to the State of Telangana to take appropriate decision on the request made by the University vide their communication, dated 02-12-2014, at the earliest, and in any case within a period of three months from today. Consequently,

the time granted by the learned Single Judge for implementing the order is also extended for a period of three months from today.”

In view of the order passed by the Division Bench in the Writ Appeal, it is submitted by the respondents that the Government of Telangana in compliance of the orders passed by the Division Bench issued a detailed letter to the Registrar, Osmania University on 07-12-2015 making it clear that the Lab Attendants of Osmania University are getting the same scales as Lab Attenders of Jawaharlal Nehru Technological University. Only the Lab Attendants of Oil Technology Research Institute, Ananthapur are kept at a separate footing by the PRC due to their higher qualifications, experience and duties also such as preparation of Laboratory reagents etc.

This Court in the order, dated 07-08-2009 in Writ Petition No.21341 of 1999 directed the respondents therein to award the pay scale of Rs.410-625 as per the RPS-1978 to the petitioners therein in the category of Lab Attendants in the service of the Osmania University with effect from the date of their initial appointments and re-fix their pay accordingly.

The Division Bench in the Writ Appeal No. 300 of 2015 specifically took into consideration the statement made by the learned Government Pleader that the cases of the petitioners will be considered on

par with the petitioners in W.P.No.21341 of 1999, dated 07-08-2009 and similar benefits would be extended to them. The Division Bench accepted the statement and directed the Government to take appropriate decision. In compliance of the orders in the writ appeal, the Government has taken a decision and issued detailed letter clarifying the issue that there is no disparity in the pay scales and petitioners are getting pay scales on par with the Lab Attendants of Jawaharlal Nehru Technological University.

Heard the learned Counsel for petitioners and the learned Government Pleader appearing for Respondents.

The Osmania University pursuant to the order passed by this Court addressed a letter dated 02-12-2014 to the Principal Secretary to Government, Education Department, Telangana, stating, if possible, kindly accord permission to award the pay scale of Rs.1010-1800, Rs.1875-2750 and Rs.3550-7150 in the revised pay scales of 1986, 1993 and 1999 respectively to the Lab Attendants working in Osmania University as per the orders of the High Court. On the said letter, there was no response from the State Government nor the State Government challenged the order passed by this Court by filing any appeal. However, the State Government, taking shelter under the order passed by the Division Bench, interpreting

the same as the Division Bench allowed the Government to pass appropriate orders basing on the statement made by the Government Pleader appearing for the State, which is to the effect that they will consider the case of the petitioners in the appeal on par with the petitioners in W.P.No.21341 of 1999 and shall extend the same benefits to them. The Division Bench, according to the State Government, gave them liberty to pass appropriate orders and accordingly they passed the orders fixing the pay scale of the petitioners.

A perusal of the order passed by the learned Division Bench shows that the submission made by the Osmania University and the submission made by the State Government before the Division Bench are different. The University on the spot undertook to implement the order, dated 23-06-2014 in W.P.No.2607 of 2003 passed by this Court, whereas the Government Pleader appearing for the State made a statement before the Division Bench that they will consider the case of the respondents in the instant appeal on par with the petitioners in Writ Petition No.21341 of 1999 and shall extend the same benefits to them.

The Division Bench disposed of the Writ Appeal with a direction to the State of Telangana to take appropriate decision on the request made by the

Osmania University vide communication, dated 02-12-2014 at the earliest. The contention of the Respondent Nos.2 and 3 in the present contempt case is that the order, dated 23-06-2014 passed by this Court in W.P.No.2607 of 2003 is merged with the Order passed by the Division Bench in the Writ Appeal No.300 of 2015. Therefore, there is no wilful disobedience on the part of the respondents. A perusal of the order passed by the learned Division Bench does not show that the order of this Court has been set aside or modified by the Division Bench. Therefore, the counsel appearing for petitioners contends that it is deemed to have been confirmed and therefore there is wilful disobedience of the orders passed by this Court.

On the other hand, the learned Government Pleader appearing for the State submits that since the Government has passed the order, dated 07-12-2015, as per the undertaking given before the Division Bench, there is no wilful disobedience to the order passed by this Court.

I have examined the issue in detail. This Court would invoke the contempt jurisdiction to punish the respondents only if the respondents are guilty of wilful disobedience of the orders passed by this Court. The Division Bench, after taking the statement made by the learned Government Pleader appearing for the

State on record, disposed of the Writ Appeal directing the State of Telangana to take appropriate decision on the request made by the University by its communication, dated 02-12-2014 at the earliest. Since the order passed by the Division Bench in the appeal does not specifically confirm or set aside or modify the order passed by this Court, it is not possible for this Court to arrive at a definite conclusion that the respondents are guilty of contempt of the order passed by this Court.

In the facts and circumstances, this Court is of the view that it is not appropriate on the part of this Court to punish the respondents.

The petitioners are, therefore, directed to approach the learned Division Bench in Writ Appeal and seek clarification as to whether the Division Bench upheld the order passed by this Court in toto or gave any liberty to the respondents to consider pay scales of the petitioners on par with the petitioners in W.P. No.21341 of 1999.

The Contempt Case is accordingly closed. No order as to costs.

Miscellaneous petitions, if any, pending in this Contempt Case shall stand disposed of.

JUSTICE R.KANTHA RAO

14th March, 2016.

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