

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Appeal No.1379 of 2016

Judgment: (per V.Ramasubramanian, J.)

Aggrieved by the refusal of the learned Judge to grant an interim direction to continue the appellant in service up to the age of 60 years, an employee of the Cooperative Bank has come up with the above writ appeal.

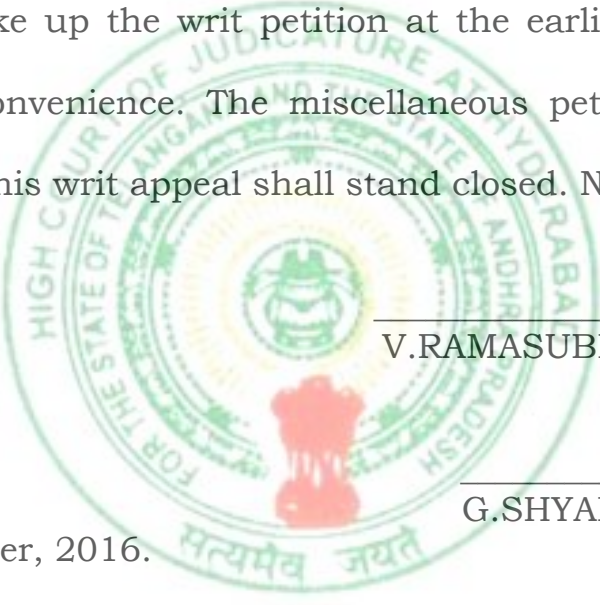
2. Heard Mr. B.Mayur Reddy, learned counsel for the appellant.

3. The appellant has filed a writ petition, seeking the benefit of extension up to 60 years of age, under the Amendment Act 4/2014 to the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984. According to the appellant, all his co-employees were granted the benefit of continuance and that there is not only a clear statutory mandate but also the applicability of Article 14 of the Constitution of India.

4. But unfortunately, the question of grant of an interim order especially an interim direction to continue a person in service beyond 58 years up to the age of 60 years, does not relate only to the existence of a *prima facie* case. It also relates to yet another important question.

5. In case an interim direction is issued and the appellant is continued up to 60 years and eventually for some reason the writ petition gets dismissed, the salary paid to the

appellant cannot be recovered since he would have worked and earned the salary. On the contrary, if no interim order is granted and the appellant succeeds in the writ petition, he can be granted full salary for that period, since he was not at fault. It is fundamental premise that no Court can pass any interim order which is incapable of being reversed at the time of the final event. Therefore, the writ appeal is dismissed. However, the Cooperative Bank shall file a counter to the writ petition within 4 (four) weeks and we request the learned Judge to take up the writ petition at the earliest depending upon the convenience. The miscellaneous petitions, if any, pending in this writ appeal shall stand closed. No costs.



V.RAMASUBRAMANIAN, J.

G.SHYAM PRASAD, J.

05th December, 2016.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Appeal No.1379 of 2016
(per VRS, J.)



05th December, 2016.
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