

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY**

WRIT APPEAL No.79 of 2016

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JUDGMENT: *(per Hon'ble Sri Justice Sanjay Kumar)*

Partly successful in her endeavour before the learned single Judge, the petitioner in W.P.No.14808 of 2005 is before us in appeal. The said writ petition was filed by her seeking a direction to the respondents to pay her salary and allowances from January, 2003 to December, 2004.

By the order under appeal, the learned single Judge held the petitioner entitled to salary only from 28.01.2003 upto 19.08.2003 and disallowed her prayer for salary and allowances for the remaining period.

The appellant/party-in-person would contend that in the light of the order passed by this Court in the earlier writ petition, W.P.No.6047 of 2004, filed by her against the transfer order dated 19.08.2003, the learned single Judge was not correct in disallowing her prayer for salary and allowances for the entire period.

Perusal of the order under appeal reflects that the only ground on the basis of which the learned single Judge held the petitioner disentitled for salary and allowances after 19.08.2003 was that she failed to join the school at Nagarkurnool pursuant to the transfer order dated 19.08.2003. The learned Judge therefore held that the Andhra Pradesh Residential Educational Institution Society, the second respondent herein, would not be responsible for payment of salaries after the said date. However, the learned Judge failed to take note of the fact that the petitioner had challenged the transfer order dated 19.08.2003 by way of W.P.No.6047 of 2004 which was allowed by this Court on 07.12.2004 setting aside the said order. Pursuant to the allowing of the said writ petition, the petitioner was given further posting by the second respondent – society under proceedings dated 29.12.2004, which she acted upon.

This being the factual situation, we are of the opinion that once the transfer order dated 19.08.2003 was subjected to challenge by the petitioner and she eventually emerged successful therein and the same

attained finality, her failure to abide by the said transfer order cannot be held against her. To hold to the contrary would practically negate the order passed by this Court in W.P.No.6047 of 2004. With due respect, the learned single Judge overlooked this crucial aspect of the matter.

The writ appeal is therefore allowed. The petitioner is held entitled to salary and allowances for the entire period from January, 2003 to December, 2004. The respondents shall remit the amounts due in this regard expeditiously and in any event, not later than eight weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE T. SUNIL CHOWDARY

Date:01.06.2016

GJ