

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.12666 of 1999

ORDER :

Heard Sri Ghanta Rama Rao, learned Senior Counsel appearing on behalf of Sri Ghanta Sridhar, counsel for petitioners; and Sri A.K. Jayaprakash Rao, counsel for respondent.

2. The petitioners who are two in number were appointed as Guide Lecturers on 24.10.1980 and in 1983 respectively, initially on consolidated pay after a thorough process of selection.

3. As per the then existing procedure they were paid a consolidated amount taking into account the pay for similar category of posts in the Archaeological Department of the Government of Andhra Pradesh, but their pay was fixed less than that payable to Guide Lecturers in the Archaeological Department.

4. During implementation of the Revised Pay Scales, 1986, this was brought to the notice of the respondent.

5. Then the State Government appointed a Pay Commissioner to go into these anomalies. He examined the matter and submitted a report to the State Government. It accepted the report and sent a copy to the Board of the respondent-Tirumala Tirupathi Devasthanams (for short, 'TTD') for its consent. Later it was placed before the Board and it appointed a Sub-Committee to go into the report to

submit a separate and specific comment. The Sub-Committee then examined the matter and gave a report implementing the Revised Pay Scales to various posts including the post of Guide Lecturer on par with similar posts in the Archaeological Department with effect from 01.04.1992. This report was accepted by the Trust Board of the respondent and petitioners' Pay Scale as Guide Lecturers was fixed at Rs.1280-2440 from the existing scale of Rs.1100-2050. This came to the knowledge of petitioners in July, 1998 when proceedings in Roc.No.B3/11174/93 dt.17.04.1998 were issued.

6. The petitioners filed this Writ Petition contending that they had expected implementation of the said Revised Pay Scales and consequent re-fixation from 1986 when the Revised Pay Scales came into effect, but the respondent implemented the same from 01.04.1992 without any rationale. They contend that once the anomaly was accepted by the State Government and recommended to the TTD and the TTD accepted the anomaly, there is no justification for implementing it only from 01.04.1992 instead of 1986 when the Revised Pay Scales were fixed. They therefore contend that this violates Article 14 of the Constitution of India and sought a direction to the respondent to implement the Scale of Rs.1280-2440 to the petitioners with effect from 1986 when the Revised Pay Scales were introduced.

7. The counsel for petitioners placed reliance on a judgment of this Court in **A.K.V. Sadasiva Reddy v. The Tirumala Tirupathi Devasthanams and another**¹.

8. Counter-affidavit has been filed by the respondent stating that in Revised Pay Scales, 1986, scale of Rs.1100-2050 was fixed for Guide Lecturers in the TTD though a higher scale was paid to persons holding similar posts in Government; that subsequently in 1990, the post of Assistant Curator in the Pay Scale of Rs.1280-2440 was created and the post of Guide Lecturer was made a feeder category to the said post of Assistant Curator vide G.O.Ms.No.431 dt.10.05.1990; that for the post of Assistant Curator the scale of pay of Rs.1280-2440 was fixed on par with employees holding the said post in the Government Archaeology and Museum Department; that a Pay Revision Commission was appointed by the Government in G.O.Ms.No.745 dt.06.08.1993 to look into the various anomalies that have arisen in the Pay Scales of 1986; that the said Commission submitted a report to the Government which was accepted by the Government and forwarded to the respondent; that the respondent placed it before its Trust-Board, and the Trust-Board constituted a Sub-Committee to look into the report and study the recommendations; that the Sub-Committee submitted a report, and the Board approved the recommendations of the Sub-Committee in a Board Resolution No.1076 dt.11/12-03-1998 in exercise of the powers

¹ WP.No.12603 of 1988 dt.30.08.1990

vested on it under Rule 7 (1) of the Tirumala Tirupathi Devasthanams Employees Services Rules, 1989 issued in G.O.Ms.No.1060 dt.24.10.1989. It stated that the Sub-Committee recommended extension of the Revised Pay Scales to petitioners only with effect from 01.04.1992, and that was why the proceedings dt.17.04.1998 gave the benefit only from that date.

9. The counsel for respondent placed reliance on a decision of this Court in **K. Balakrishna Pillai and others v. Executive Officer, Tirumala Tirupathi Devasthanams, Tirupathi**² in support of his contention that it is permissible for the respondent to fix a different date of implementation of Revised Pay Scales than for the Government employees. He also stated that the Financial Year commenced on 01.04.1992, and that was why that date was taken into account for giving benefit to petitioners of the Pay Scale Rs.1280-2440, and not 1986. He contended that petitioners' cases were not to be considered individually, and on account of financial implications, the date 01.04.1992, was chosen. He stated that petitioners have no vested right to claim monetary benefit prior to 01.04.1992.

10. Reply-Affidavit was filed by petitioners refuting the said contentions.

11. The petitioners contended that the qualifications for the posts in the Department of Archaeology and Museum as regards Guide Lecturers are same as that in the TTD, and petitioners cannot be

² WP.No.12832 of 1988 dt.24.03.1998

denied the same benefit which employees of the Government are entitled to. They contended that once the Pay Commission had examined the issue and was satisfied that the posts of Guide Lecturers in the TTD are equal to the posts in the State Government Archaeology and Museum Department, the respondent cannot deny the benefit of the same from 1986 and implement it from 01.07.1992.

12. I have noted the submissions of both sides.

13. Rule 4 (ix) of the Tirumala Tirupathi Devasthanams Employees Services Rules, 1989 (**for short, ‘1989 Rules’**) states as under :

“4. The Tirumala Tirupathi Devasthanams employees shall be governed by the following rules and such of the orders and clarifications issued on these rules by Government of Andhra Pradesh in respect of the employees of State Government from time to time in so far as they are not inconsistent with the Act and the Rules made thereunder :

... ..

(ix) any other executive instructions and Government orders that are issued from time to time by the Government in respect of their employees which are not inconsistent with the Act and Rules made thereunder.”

14. Before these Rules were framed in 1989, the employees were governed by Tirumala Tirupathi Devasthanams Servants Other Than Hereditary Office Holders (Conditions of Service) Rules, 1983 (**for short, ‘1983 Rules’**), framed vide G.O.Ms.No.925 dt.18.06.1983 under Section 46 (1) of the Tirumala Tirupathi Devasthanams Act, 1979, which also contained Rule 3 which is identical with Rule 4 of the 1989 Services Rules.

15. In **A.K.V. Sadasiva Reddy** (1 supra), Rule 3 of 1983 Rules was interpreted by this Court in relation to a similar dispute regarding the Scale of Pay of Curator in the respondent-Organization who was being paid Pay Scale of Rs.900-1300 while the Curator in Government Service was paid Rs.1050-1600. This anomaly was referred to a Pay Revision Commission by the State Government who recommended enhancement of the Pay Scale which was approved by the Government on 17.09.1979. The TTD also passed a resolution No.619 on 23.11.1979 adopting the Pay Scale of State Government employees for TTD employees. The petitioner therein made a request to the management of the respondent that his scale of pay should be enhanced from Rs.900-1300 to Rs.1050-1600, and the request was accepted with effect from 01.04.1986, but the petitioner therein wanted the said benefit from 27.10.1980, the date on which he was appointed as a Curator. This was opposed by the TTD. In that regard, this Court considered Rule (3) of the Tirumala Tirupathi Devasthanams Servants Other Than Hereditary Office Holders (Conditions of Service) Rules, 1983, and held that once the Scale of Pay of Curator in Government Service was enhanced from Rs.900-1300 to Rs.1050-1600, by virtue of Rule (3) this benefit should automatically accrue to petitioner by virtue of G.O.Ms.No.925 dt.18.06.1983 since there is nothing inconsistent with the TTD Employees Service Rules. It therefore held that the petitioner therein was entitled to the said benefit from 18.06.1983, though not from 27.10.1980 as claimed by him, and rejected the contention of the TTD

that the said benefit ought to be given only from 01.04.1986. It therefore directed the TTD to pay the difference of amount in the Pay Scale of Rs.900-1300 and Rs.1050-1600 for the period from 18.06.1983 to 01.04.1986.

16. Since Rule 4 of the 1989 Service Rules is identical to Rule 3 of the Tirumala Tirupathi Devasthanams Servants Other Than Hereditary Office Holders (Conditions of Service) Rules, 1983, the principle that the benefit given to Government employees should automatically accrue to the employees of the TTD would get attracted, and it applies to the present case also.

17. Coming to the decision in **K. Balakrishna Pillai and others** (2 supra) being relied upon by the counsel for respondent, in that case the issue was with regard to a claim for payment of Revised Pay Scales of 1986 by persons holding the post of Compositor Grade-II which is equivalent to the post of Distributor in a Government Press. While the petitioner therein wanted the said benefit from 1986 since the Distributor in the Government Press was given Pay Scale of Rs.780-1275 in the Revised Pay Scales, 1986, the petitioner therein was denied the same and was given the benefit only from 01.04.1992. So he approached this Court. This Court then relied upon the decisions of the Supreme Court in **State of Rajasthan v. Gopaldas and others**³ and **Multipurpose Health Workers Association and**

³ AIR 1995 SC 809

others v. State of Haryana and another⁴, and came to the conclusion that an employer was justified to fix a different date for granting him pay scale to the employees doing similar work in two different organizations, and that even though work done by the petitioners was comparable to the work done by Compositors in Government Press, it did not follow necessarily that the date for grant of Revised Pay Scales in both the organizations should be one and the same.

18. It is pertinent to note that the attention of the Court in **K. Balakrishna Pillai and others** (2 supra) was not drawn to Rule 4 of the 1989 Service Rules which specifically provided that employees of the TTD should be governed by the Rules and orders and clarifications issued by the Government of Andhra Pradesh in respect of employees of State Government from time to time, including any Executive instructions and Government orders which are issued from time to time by the Government in respect of their employees which are not inconsistent with the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. It is by virtue of this Rule 4 that the employees of the TTD can automatically claim the benefit which is conferred on employees of the State Government as in the decision in **A.K.V. Sadasiva Reddy** (1 supra) wherein the Rule (3) of the Tirumala Tirupathi Devasthanams Servants Other Than

⁴ 1996 (4) Supreme 441

Hereditary Office Holders (Conditions of Service) Rules, 1983 which is in *pari materia* with Rule 4 of the 1989 Service Rules, was applied.

19. I am therefore, of the opinion that the decision in **K. Balakrishna Pillai and others** (2 supra) is *per incuriam* and rendered in ignorance of Rule 4 of the 1989 Service Rules, and therefore, cannot operate as a precedent binding on this Court.

20. As regards the contention of counsel for respondent that on account of financial implications the benefit was not given from 1986 but from 01.04.1992, I am unable to agree with the said contention since granting such benefit to the petitioners herein would not in any way cause serious dent on the financial resources of the respondent which is admittedly one of the richest institutions in the country / world.

21. Accordingly, the Writ Petition is allowed and the action of the respondent in giving benefit of Pay Scale Rs.1280-2440 with effect from 01.04.1992 in the proceedings Roc.No.B3/11174/93 dt.13.05.1998 to the petitioners is declared as illegal, arbitrary and violative of Article 14 of the Constitution of India. The respondent is directed to pay to the petitioners the difference in amount in the Pay Scale Rs.1100-2050 and Rs.1280-2440 from the date of implementation of the Revised Pay Scales, 1986 by the respondent-organization [which is said to be from a date in 1987].

22. This payment shall be made within three (03) months from the date of receipt of a copy of the order. No order as to costs.

23. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-08-2017

Ndr/*

