

**IN THE HIGH COURT OF JUDICATURE, AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH**

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO. 1743 OF 2017

Between:

Dr (Mrs) Benedicta Coelho MS (GS)

....Petitioner

A n d

The State of Telangana, Health Medical & Family Welfare (E2)
Department, represented by its Principal Secretary to Government
of Telangana, Secretariat, Hyderabad and others.

....Respondents

DATE OF ORDER: 30.01.2017



HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION NO. 1743 OF 2017****ORDER:**

Petitioner joined services as Civil Assistant Surgeon on 11.7.2000. Petitioner claims that presently she is holding the rank of Assistant Professor (General Surgeon). Petitioner earlier prosecuted Post Graduate Diploma Course from 8.6.2000 to 7.6.2009. Thereafter, she prosecuted Post Graduation in General Surgery of three years duration. On completion of the Post Graduation of General Surgery, she secured admission in second post graduation course, also called as Super Specialty. She joined the course on 14.11.2015. This course is also of three years duration. The claim made by the petitioner for grant of salary and allowances for the period from 14.11.2015 is rejected by the Government vide memo dated 12.1.2016, impugned in this Writ Petition.

2. Learned counsel appearing for the petitioner contends that in accordance with the rules governing the service, the petitioner is entitled to prosecute this course of study and she is entitled for payment of pay and allowances. Not paying the pay and allowances from 14.11.2015 is *ex-facie* illegal and arbitrary exercise of power under authority.

3. On the contrary, the Government Pleader by placing reliance on Admission into Post Graduate Medical Courses in the State of

Andhra Pradesh Rules notified under G.O.Ms.No. 260 dated 10.7.2002 contends that in-service candidate is entitled to prosecute Post Graduate Diploma Course and/or Post Graduate Degree Course and is entitled for payment of pay and allowances for the period of course of diploma and/or degree with a maximum duration of three years and there is no provision to undergo further course of study after completion of diploma and/or post graduation. Therefore, the subsequent joining in second post graduation course is not valid and therefore, the petitioner is not entitled to pay and allowance as claimed.

4. Though extensive reliance is placed by the learned counsel on two sets of Rules, a bare perusal of the order impugned would show that the order does not contain any reasons in support of the decision except a bald statement holding that the petitioner is not entitled for sanction of second post graduation/lien on deputation. Thus the order is a non-speaking order and on that ground alone it is liable to be set aside.

5. Having regard to the same, leaned counsel appearing for the petitioner as well as the learned Government Pleader agree for disposal of the Writ Petition by setting aside the order impugned and to remit the matter to the Government for consideration of the issue afresh and passing of orders by assigning due reasons in support of the decision.

6. At this stage, learned counsel appearing for the petitioner also submits that liberty may be granted to the petitioner to make a representation expressing the stand of the petitioner on the claim made by the petitioner.

7. Earlier order of the Government was passed on the proposals submitted by the Director. Having regard to the rival claims, liberty is granted to the petitioner to make a representation to the Government within two weeks from today and on receipt of such representation, the Government shall pass orders within four weeks from the date of receipt of such representation. It is made clear that there is no expression of opinion on merits, the respective contentions are left open to be agitated in appropriate proceedings. Government shall pass reasoned order after due consideration of representation of the petitioner.

8. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

P. NAVEEN RAO, J

Date: 30.01.2017

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