

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

**W.P.M.P.Nos.48067 of 2017, 48069 of 2017, 3019 of 2007 &
47199 of 2017 and W.P.M.P.(SR).No.135208 of 2017**

IN/AND

W.P.No.6594 of 2000

COMMON ORDER:

Heard learned counsel for the petitioner/proposed respondent No.3, writ petitioner and the learned Government Pleader for Higher Education (Telangana).

2. W.P.M.P.No.3019 of 2007 is an application filed by third party to the writ petition seeking her impleadment as respondent No.3 in W.P.No.6594 of 2000.

3. W.P.M.P.No.48067 of 2017 is an application filed seeking condonation of delay of 1959 days in filing the petition to set aside the order, dated 22.07.2010, passed in W.P.M.P.No.3019 of 2007.

4. W.P.M.P.No.48069 of 2017 is an application filed seeking to set aside the order of dismissal, dated 22.07.2010, in W.P.M.P.No.3019 of 2007 in W.P.No.6594 of 2000.

5. W.P.M.P.(SR).No.135208 of 2017 is filed under Section 151 C.P.C. seeking to reopen W.P.No.6594 of 2000.

6. W.P.M.P.No.47199 of 2017 is filed under Section 151 C.P.C. seeking to recall the order, dated 19.11.2014, in W.P.No.6594 of 2000.

7. The petitioner in these miscellaneous applications is the wife of late Sri Khursheed Ahmed, who worked as Lower Division Clerk in the writ petitioner college. Orders of removal passed by the writ petitioner college against the petitioner's husband and certain

others were assailed before the State Government and the State Government, *vide* G.O.Ms.No.169, Education (C.E.II-2) Department, dated 08.05.1995, directed reinstatement of the said employees and as the petitioner's husband passed away by the said date, Government directed payment of salary and other benefits to the husband of the petitioner from the date of dismissal. Subsequently, the said orders of the Government were assailed before this Court by the writ petitioner college. The said orders of the Government were set aside by this Court in W.P.Nos.13072 of 1995 and 12777 of 1995 on 02.02.1999 on the ground of violation of principles of natural justice and remanded the matter to the Government for fresh consideration. On such remand, the State Government issued an order *vide* G.O.Rt.No.57 Education (CF.II.2) Department, dated 27.01.2000, and directed the writ petitioner college to implement the orders issued in G.O.Ms.No.169, dated 08.05.1995.

8. Assailing the orders of the Government *vide* G.O.Rt.No.57, dated 27.01.2000, writ petitioner filed W.P.No.6594 of 2000, showing the State Government as respondent No.1 and one Sri Habeebullah Farooqui, who worked as U.D.C. in the writ petitioner college, as respondent No.2. In the said writ petition, petitioner in these miscellaneous petitions filed W.P.M.P.No.3019 of 2007 on 20.01.2007, seeking her impleadment as respondent No.3 on the ground that the adjudication of the said writ petition would effect her. The petitioner filed the said application in view of the reason that her husband, who was working as L.D.C. in the writ petitioner college and who was covered by the above Government Orders, passed away on 22.12.1988.

W.P.M.P.No.3019 of 2007 was dismissed for non-prosecution by this Court by way of an order, dated 22.07.2010, on the ground that the counsel, who presented the said application, gave no objection and no other advocate was engaged by the parties. Subsequently, W.P.No.6594 of 2000 was disposed of by this Court on 19.11.2014 following the earlier judgment of this Court reported in **Vivek Vardhini Education Society v. State of A.P.**¹ The operative portion of the said order reads as under:

“For the aforesaid reasons and for the reasons recorded in the above referred judgment, this writ petition is disposed of, setting aside G.O.Ms.No.169 Education (C.E.II-2) Department dated 08.05.1995 and G.O.Rt.No.57, Education (C.E.II) dated 27.1.2000 as the same is opposed to the law laid down by this Court in Vivek Vardhini Education Society vs. State of A.P. However, it is further directed that the respondent-employee shall be entitled to be paid backwages from the date of dismissal, till the date on which he attained the age of superannuation to the extent of 50% and death-cum-retirement benefits in accordance with the relevant rules of the Government. It is further made clear that the payments, if any, made in this behalf shall also be taken into account. This exercise shall be completed within a period of four months from the date of receipt of this order. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.”

9. In the above background, the present applications have been filed, principally stating that due to the personal financial problems, though his earlier counsel asked the petitioner to take back the file, she could not engage another counsel. Obviously, because of the death of the petitioner’s husband in the year 1988, the writ petition was filed in the year 2000, without impleading the husband of the petitioner herein.

¹ 2002 (1) ALD 323 (DB)

10. At the hearing, it is submitted by learned counsel for the petitioner that in view of the absence of any directions as to the payment to be made to the deceased husband of the petitioner herein in the order, dated 19.11.2014, the authorities are not paying the said amounts though they paid the amounts to other similarly situated employees in whose favour the State Government passed the orders in the years 1995 and 2000. In fact, no counter-affidavit is filed denying these averments.

11. Having heard the learned counsel for the petitioner, writ petitioner and the learned Government Pleader, all these petitions are allowed as prayed for, and the following fresh order is passed:

This Writ Petition is disposed of, setting aside G.O.Ms.No.169, Education (C.E.II-2) Department, dated 08.05.1995, and G.O.Rt.No.57, Education (C.E.II) dated 27.01.2000 as the same is opposed to the law laid down by this Court in **Vivek Vardhini Education Society's** case (1 supra). However, it is further directed that respondent No.2 is entitled to be paid back wages from the date of dismissal, till the date on which he attained the age of superannuation to the extent of 50% and death-cum-retirement benefits in accordance with the relevant rules of the Government. It is further directed that the impleaded respondent No.3 is entitled to be paid back wages payable to her husband from the date of dismissal, till the date on which her husband attained the age of superannuation to the extent of 50% and death-cum-retirement benefits. It is further made clear that the payments made, if any, in his behalf shall also be taken into account. This exercise shall be completed within a period of four

(4) months from the date of receipt of a copy of this order. There shall be no order as to costs.

12. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 16.11.2017
AMD



THE HONOURABLE SRI JUSTICE A.V.SESHA SAI



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