

*THE HONOURABLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

+ Writ Petition No.12652 of 2004

%17-08-2017

W.P.No.12652 of 2004

#The Joint Director of Agriculture
Medak District at Sangareddy and others.

... Petitioners

Vs.

\$V. Satyanarayana Reddy

... Respondent

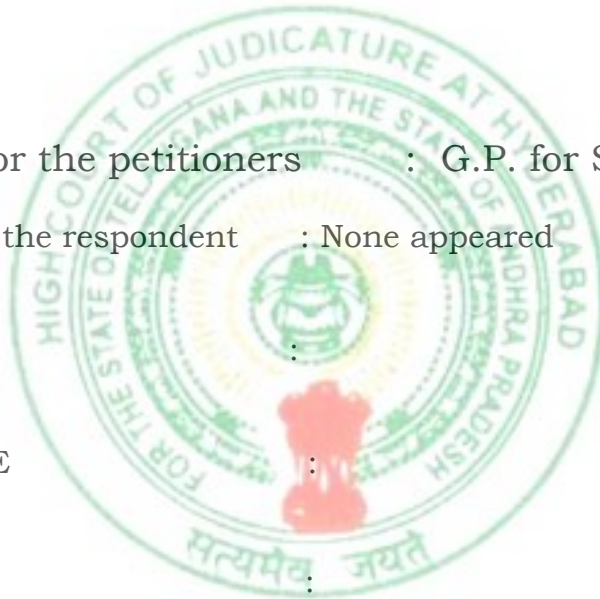
! Counsel for the petitioners : G.P. for Services-I

^Counsel for the respondent : None appeared

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>HEAD NOTE

? CITATIONS



IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

Writ Petition No.12652 of 2004

W.P.No.12652 of 2004

Between :

The Joint Director of Agriculture,
Medak District at Sangareddy and others.

... Petitioners

And

V. Satyanarayana Reddy

... Respondent

DATE OF JUDGMENT PRONOUNCED : 17-08-2017

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

1. Whether Reporters of Local newspapers
may be allowed to see the Judgment?

Yes/No

2. Whether the copies of judgment may be
marked to Law Reporters/Journals

Yes/No

3. Whether Your Lordships wish to
see the fair copy of the Judgment?

Yes/No

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.12652 of 2004

Date: 17.08.2017

Between :

The Joint Director of Agriculture,
Medak District at Sangareddy and others.

... Petitioners

And

V. Satyanarayana Reddy

... Respondent

COUNSEL FOR PETITIONERS : G.P. Services-I

COUNSEL FOR THE RESPONDENT : None appeared

THE COURT MADE THE FOLLOWING:

ORDER : (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

The order dated 04.12.2002 in O.A.No.5086 of 1995 passed by the A.P. Administrative Tribunal, Hyderabad (for brevity "the Tribunal") is assailed in this writ petition.

2. Heard the learned Government Pleader for Services-I appearing for the petitioners. None appeared for the respondent, though the name of the counsel Sri D. Linga Rao is shown in the cause list.

3. The respondent was temporarily appointed as a Typist in Agriculture Department. His services were terminated on 30.11.1977 for want of vacancies. However, he was re-appointed as a Junior Assistant on 17.12.1977 and he has joined in the said post on 19.12.1977. The State Government has regularized the gap period between 30.11.1977 and 19.12.1977 and fixed his pay as Junior Assistant. On a representation, the respondent's Pay Scale was revised in the cadre of Junior Assistant by including his Special Pay admissible to the post of Typist by applying G.O.Ms.No.27, dated 17.01.1978 with effect from 01.11.1977. On the Audit Department raising an objection, petitioner No.1 has initially withdrawn the Special Pay by order dated 29.12.1994. The said order was set aside by the Tribunal on the ground that the petitioners have not given the respondent an opportunity of being heard. Following the said order, petitioner No.1 has

issued a show cause notice dated 01.12.1994 and after considering the reply of the respondent, the former has issued a Memo dated 11.08.1995, refixing the pay of the respondent by excluding the Special Pay and directing the respondent to remit the excess amount drawn from November, 1977 to September, 1994 to a tune of Rs.43,227/-, in addition to the excess amount drawn by him from October, 1994 to 31.07.1995. Feeling aggrieved by this order, the respondent has filed the aforementioned O.A. The Tribunal allowed the said O.A. by order dated 04.12.2002, without undertaking any discussion on merits of the case, but by observing that the Government has issued G.O.Ms.No.190, dated 24.08.1998, accepting the pleas of the staff to include the Special Pay also in the promotion pay scale and that no recovery could be made.

4. The learned Government Pleader submitted that G.O.Ms.No.27, dated 17.01.1978, which was later cancelled and restored more than once, was eventually revived by G.O.Ms.No.190, dated 24.08.1998. He has further argued that the Tribunal has erred in applying the said G.O., to the case of the petitioner, as the said G.O. provides for inclusion of Special Pay sanctioned to the Typists and Steno-Typists, Selection Grade Stenos and P.A. to Secretaries in the fixation of pay on promotion to higher posts, which do not carry Special Pay, and that the post of Junior Assistant in which

the respondent was appointed, not being a promotion post to the post of Typist, the said G.O. has no application at all.

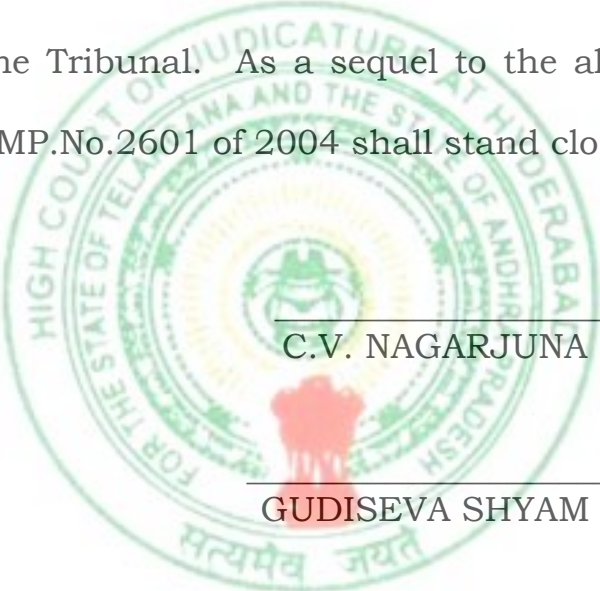
5. The very opening para of G.O.Ms.No.190, dated 24.08.1998, fortifies the submission of the learned Government Pleader. It is instructive to reproduce the said para hereinbelow

“In the G.O. 1st read above, orders were issued for protection of special pay sanctioned to the Typists and Steno Typists, Selection grade Stenos and P.A. to Secretaries, with reference to the qualifications in Type writing and Stenography as basic pay for the purpose of fixation of pay on promotion to higher posts which does not carry special pay. Accordingly the pay in the higher post have been fixed meeting the sum total of pay in the higher posts has been at the higher stage in accordance with the notional rules. On a further examination, the Government have issued orders in G.O. 2nd read above cancelling the orders issued in the reference 1st read above, on the ground that there is no similar provision in respect of employees of Government of India and other employees of the State Government.” (Emphasis added)

6. From a reading of the above reproduced para, it is clearly evident that G.O.Ms.No.27, dated 17.01.1978, was issued for protection of Special Pay sanctioned to the Typists etc., as part of Basic Pay for the purpose of fixation of pay on promotion to higher posts. The Memo impugned by the respondent before the Tribunal clearly mentions that the posts of Typists and Junior Assistants carry identical scales and, therefore, the Special Pay was erroneously extended to the respondent. Unfortunately, the Tribunal failed to discuss

these relevant aspects and got carried away by the fact that G.O.Ms.No.190, dated 24.08.1998, has revived G.O.Ms.No.27, dated 17.01.1978, without understanding the true purport of the latter G.O. and its non-application to the persons, who are appointed in a post equivalent to the post of Typist. Therefore, the impugned order dated 04.12.2002 passed by the Tribunal is not sustainable.

7. For the aforementioned reasons, the writ petition is allowed setting aside the impugned order dated 04.12.2002 passed by the Tribunal. As a sequel to the allowing of writ petition, WVMP.No.2601 of 2004 shall stand closed.



C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

17.08.2017.

NOTE: L.R. Copies to be marked.
(B/O)
Msr

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.12652 of 2004



17.08.2017
Msr