

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos. 17946, 18404 and 19036 of 2017

COMMON ORDER:

Heard Sri Venkat Challa for Sri Challa Dhananjaya, learned counsel for the petitioners, Sri T.Durga Reddy, Special Government Pleader attached to the office of the Advocate General for learned Government Pleader for Finance (Telangana) and learned Government Pleader for Agriculture and Cooperation, and Sri B.Timothi, learned Standing Counsel for Professor Jayashankar Telangana State Agriculture University for respondents.

2. As a common question arises for consideration in this batch of three cases, they are being disposed of by this common order.

3. Petitioners are employed as casual labour in the above university from much prior to 25-11-1993 till today and they are being paid Minimum of Time Scale payable to Class IV employees and Dearness Allowance (for short 'DA'). They however seek benefit of House Rent Allowance (for short 'HRA') and City Compensatory Allowance (for short 'CCA') also from the respondents and place reliance on G.O.Rt.No.119 Higher Education (UE.I) Department dt.16-02-2013 wherein benefits of HRA and CCA were extended to casual employees of Universities appointed prior to 25-11-2013 and continuing in therein without interruption.

4. Petitioners contend that the above G.O. was adopted by Dr.Y.S.R.Horticultural University and Osmania University and

benefits of HRA and CCA are being granted to Minimum Time Scale workers; that even though petitioners have made request for similar benefit, the University had sought sanction from the Department of Agriculture and Cooperation, State of Telangana, through a letter No.1069/LAB/2015 dt.20-04-2015 and another letter dt.23-01-2016 but the said department has not responded to the same.

5. Counter affidavit is filed by the University stating that casual labour were being given Minimum of Time Scale of Class-IV employees vide proceedings No.1202/LAB/2008 dt.08-10-2008 and also enhanced rates of D.A., provided they were on muster rolls as on 25-11-1993 and were continuing as on 08-10-2008, but HRA and CCA are not payable. It is stated that though Government issued G.O.Rt.No.119 dt.16-02-2013 extending benefit of H.R.A. and C.C.A. to casual employees appointed before 25-11-1993 in Universities, concurrence of the Government was sought by it and the Government had rejected the same on 25-06-2013 and 15-05-2015 on the ground that they are not regular employees. Thus the University states that if Government gives concurrence, it will pay HRA and CCA also as per the above G.O.Rt.No.119 dt.16-02-2013.

6. The Finance Department of State of Telangana has filed counter affidavit stating that as per G.O.Ms.No.286 dt.08-10-2008, only Minimum of Time Scale of Class-IV employee and DA would be paid to casual labourers like petitioners, but they are not entitled to HRA and CCA which only regular employees are entitled to. It is

stated that the issue has to be dealt with by the Pay Revision Commission which is appointed by the State Government since it has requisite experience and contends that similarly placed employees in Government Departments and other institutions, are also not being extended these benefits.

7. The learned counsel for the petitioner and the learned Government Pleader for Finance and Planning and Sri B.Timothi, Advocate for the University reiterated the above contentions.

8. Therefore the question for consideration is “whether the petitioners are also entitled to be extended the benefit of HRA and CCA or not?”

9. It is not disputed by the respondents that the petitioners are working as casual labour in the university prior to 25-11-1993 and they are continuing in service as on date. It is an admitted fact that they are being paid Minimum of Time Scale of the Class-IV employees and DA.

10. G.O.Rt.No.119 was issued by the then State of Andhra Pradesh on 16-02-2013. The said G.O.Rt. recites that the Registrar of Sri Venkateswara University wrote to the Government on 11-12-2009 stating that due to ban imposed by the Government on fresh recruitment of staff on account of retirement/death of employees of said University, several posts fell vacant; consequent on promotion of employees from entry point to next cadre, strength of vacancies at

entry point of posts was increasing every year; that the said University was finding it difficult to compensate and cope with increased day to day work load due to expansion and development of the University; to meet the situation, casual labour were engaged prior to 25-11-1993; that they were given Minimum Scale as per the Revised Pay Scales, 2005 for the posts they were holding along with DA and Interim Relief; and that the question of extension of HRA and CCA to them on par with full time contingent employees needs to be clarified. The G.O.Rt. further states that initially by a letter dt.20-07-2010, the State rejected the request to allow HRA and CCA on the ground that they were not regular employees; later All Universities Employees and Workers Union made representations on 11-09-2010 to extend the benefit of HRA and CCA to the Time Scale Employees also; and the State then issued the G.O.Rt.No.119 on 16-02-2013, *superseding its earlier decision taken on 20-07-2010 and 30-08-2010*, and decided to extend the benefit of HRA and CCA *to those employees who have been appointed before 25-11-1993 and continuing in the Universities without interruption, subject to meeting the expenditure from the Block Grant without seeking additional budget from the Government* subject to the following conditions:

- a) The evidence of appointment prior to 25-11-1993 and has been working as on today without interruption to be verified and certified by the Vice Chancellor concerned.

b) With regard to HRA orders issued in G.O.(P) No.225, Finance (PC.II) Department dt.29-05-1993 read with Circular Memo No.1040/48/A1/PC.I/2010, Finance (PC.I) Department dt.10-03-2010, cannot be made applicable.

11. Sri T.Durga Reddy, Special Government Pleader, contended that the said G.O.Rt. was issued by the combined State of Andhra Pradesh and not by the new state of Telangana and therefore is not binding.

12. This contention is without merit because as per Section 101 of the A.P. Reorganization Act, 2014, though power is given to make modifications or repeal any law made by the combined State of Andhra Pradesh prior to the appointed day i.e. 02-06-2014, no such amendment or modification to G.O.Rt.No.119 dt.16-02-2013 is placed on record by the State of Telangana modifying or canceling the benefit under the said G.O.Rt. Therefore it continues to operate and binds the State of Telangana. The allegation of petitioners that the Osmania University, located in the State of Telangana, is paying HRA and CCA to its casual employees is not denied by respondents. The State of Telangana cannot discriminate between casual labour working in one University and casual labour working in another University located within its geographical boundaries by denying the latter the benefit of extension of HRA and CCA.

13. Another contention raised by Sri T.Durga Reddy was that the operative part of G.O.Rt.No.119 dt.16-02-2013 did not refer to casual employees and only mentions “employees who have been appointed prior to 25-11-1993” and therefore the benefit of the said G.O.Rt. is to be extended only to regular employees.

14. This contention is also without merit since the earlier part of said G.O.Rt. refers to casual employees only, and it records that initially the Government rejected the request for extension of HRA and CCA on 20-07-2010 and 30-08-2010, but subsequently changed its view and agreed to extend to casual employees of Universities only the benefit of HRA and CCA. Therefore the respondents cannot contend that only regular employees are entitled to HRA and CCA and not casual employees like petitioners.

15. Accordingly the Writ Petitions are allowed and the petitioners are held entitled to benefit of HRA and CCA as per the terms and conditions stipulated in G.O.Rt.No.119 Higher Education (UE.I) Department dt.16-02-2013 and the respondents are directed to release the same from 16-02-2013, the date of issuance of the said G.O.Rt. No costs.

16. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-07-2017
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