

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

And

HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.44026 OF 2016

ORDER: (Oral, *Per* Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present Petition, the petitioners have challenged the order, dated 29.03.2016, passed in O.A. No.5790 of 2015 by the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal'); whereby the O.A. filed by the 1st respondent herein was allowed directing the petitioners herein to sanction and pay full and total retrial benefits to the 1st respondent including full pension, gratuity, commutation of pension, leave encashment on retirement, family benefit fund, Group Insurance *etc.*, within a period of two months from the date of receipt of a copy of the order.

It is not in dispute that the caste certificate of the 1st respondent was cancelled by the District Collector, Nellore *vide* proceedings in Rc.C5(M).4161/93 dated 09.10.2004 and, thereafter, the 1st respondent challenged the same before this Court in Writ Petition No.15899 of 2015; wherein the learned single Judge *vide* order dated 07.07.2015 disposed of the Writ Petition directing the 1st petitioner herein to conclude the appeal proceedings and pass appropriate orders on the appeal dated 26.10.2004, filed by 1st respondent against the orders of the District Collector, Nellore District, dated 09.10.2004, within a period of two months from the date of receipt of a copy of the order, failing which, all the proceedings initiated against the 1st respondent with regard to her caste certificate shall stand automatically cancelled and further action shall be taken by the petitioners herein for settlement of the terminal benefits of the 1st respondent.

Consequently, the petitioners issued notice dated 07.08.2015 asking the 1st respondent to appear in the office chambers of the Minister for Social Welfare, South 'H' Block, II Floor, A.P. Secretariat, Hyderabad on 22.08.2015. As stated by the learned counsel for the 1st respondent, that on the said date, the Minister concerned was not available, who had to hear the appeal, and thereafter the 1st respondent received notice on 16.03.2016, after the time was lapsed, as granted by the learned single Judge of this Court in Writ Petition No.15899 of 2015. Therefore, in her reply, she specifically stated that the time, as granted by this Court, is lapsed. Therefore, the petitioners have no jurisdiction to pass any further order. However, ignoring the reply of the 1st respondent, the 1st petitioner *vide* Memo No.10142/CV.2/2004, dated 16.03.2016 upheld the earlier order of the District Collector, Nellore dated 09.10.2004 in canceling the caste certificate of the 1st respondent.

Being aggrieved, she filed O.A. No.5790 of 2015 seeking to declare the action of the petitioners herein in not releasing her full pension and retirement benefits, in spite of the direction issued by this Court in Writ Petition No.15899 of 2015 dated 07.07.2015 by quashing the orders issued by the District Collector, Nellore dated 09.10.2004, whereby cancelled the caste certificate of the 1st respondent, as illegal, arbitrary and in violation of Articles 14 and 21 of the Constitution of India. Consequently, directed that the 1st respondent herein is entitled for full pension and retirement benefits from the date of retirement with arrears, after deducting the provisional pension from the pension arrears which was already paid.

Accordingly, the learned Tribunal has allowed the O.A. and directed the petitioners herein to sanction and pay full and total retrial benefits to the 1st respondent including full pension, gratuity, commutation of pension,

leave encashment on retirement, family benefit fund, Group Insurance *etc.*, within a period of two months from the date of receipt of a copy of the order.

Learned Government Pleader appearing on behalf of the petitioners submits that based on the direction issued by this Court in Writ Petition No.15899 of 2015, dated 07.07.2015, the appeal preferred by the 1st respondent was posted for hearing on 22.08.2015, 09.04.2016 and, finally, on 14.05.2016, which fact is narrated in Para 10 of the affidavit filed in support of the petition. Learned single Judge of this Court, while disposing of the said Writ Petition on 07.07.2015, directed the 1st petitioner to conclude the appeal proceedings and to pass appropriate orders on the appeal dated 26.10.2004, within a period of two months from the date of receipt of the order. Thus, the petitioners herein were supposed to conclude the appeal proceedings by 20.09.2015 itself. And, if there was any difficulty for the petitioners, they were duty bound to approach this Court for seeking extension of the stipulated time and only thereafter they would have sent a further notice to the 1st respondent and decided the appeal. However, the petitioners did not bother to do the same, and they on their own further issued notices on 09.04.2016 and 14.05.2016 without power and jurisdiction.

As stated by the learned Government Pleader, appearing on behalf of the petitioners, first notice dated 07.08.2015 was issued to the 1st respondent asking her to appear on 22.08.2015. Accordingly, the 1st respondent appeared on the said date, however, the Minister concerned was not available at the stipulated time and she was told that the Minister concerned was attending a programme at Vijayawada. Thereafter, the 1st respondent never received any notice within the stipulated period of two months, as directed by this Court.

We note in the order dated 07.07.2015, it was specifically stated that the appeal proceedings have to be concluded within two months from the date of receipt of the order, failing which, all the proceedings initiated against the 1st respondent herein with regard to her caste certificate shall stand automatically cancelled.

In view of the earlier direction of this Court in Writ Petition No.15899 of 2015, and the fact that the petitioners failed to conclude the appeal proceedings within the time granted by this Court, we find no merit in this Writ Petition. The Writ Petition is, accordingly, dismissed. No order as to costs.

As a sequel to dismissal of the Writ Petition, *interim* order shall stand vacated and W.P.M.P. No.54327 of 2016 and W.V.M.P. No.5296 of 2016 shall stand closed.

Accordingly, we hereby direct the petitioners to comply the directions issued by the learned Tribunal in O.A. No.5790 of 2015 dated 29.03.2016 within two weeks from the receipt of this order.

SURESH KUMAR KAIT, J

DR. JUSTICE SHAMEEM AKTHER, J

Date: 06-06-2017.
Dsh

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

And

HON'BLE DR. JUSTICE SHAMEEM AKTHER

167



12062017

WRIT PETITION No.44026 OF 2016

(Order of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)

Date. 06-06-2017

DSH