

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.44443 of 2017

ORDER: (*Per MGR,J*)

The respondent filed O.A.No.7384 of 2015 seeking to continue him in service till he attains the age of superannuation of 60 years by declaring the proceedings in Rc.No.Ser.II-2/10574/2015 dated 16.12.2015 of the 2nd petitioner as illegal and arbitrary. The Andhra Pradesh Administrative Tribunal (for brevity 'the Tribunal') allowed the O.A. on 23.02.2017 against which the present writ petition came to be filed by the Government.

2. The case of the petitioners is that the respondent is working as part-time Lab Attender on minimum time scale of pay. As per the instructions vide proceedings in Rc.No.Ser.II-2/10574/2015 dated 16.12.2015 of the 2nd petitioner, all the Regional Joint Directors of Intermediate Education in the State were instructed not to utilize the services of part-time staff working in Government Junior Colleges in their respective jurisdictions beyond 58 years of age as they do not come under regular Government service.

3. The Government, vide G.O.Ms.No.147 Finance (HRM IV) Department dated 30.06.2014, has carried out an amendment to sub-section (1) of Section 3 of the Andhra

Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984, which stipulates that “Every Government employee shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty (60) years”.

4. Heard both sides.

5. The learned Government Pleader would contend that as per the Amendment Act, the age of superannuation of the employees was enhanced from 58 years to 60 years; the respondent being a part-time employee is not entitled to be continued in service up to the age of 60 years of superannuation as per the Amendment Act; and the impugned order of the Tribunal is liable to be set aside.

6. Having considered the above submissions of the learned Government Pleader and perused the order of the Tribunal, we came to the conclusion that the respondent is working, in a clear vacancy for the last 20 years, as Lab Attender without regularization of his services. The post of Lab Attender comes under category-II of Last Grade Service Rules. As per Section 3(2) of Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 2014 (Act 23 of 1984) every employee belonging to Last Grade service shall retire from service on the afternoon of the last day of month in which he attains the age of superannuation of 60 years. There is no change in the said enactment.

7. Hence, we see no illegality or irregularity in the order of the Tribunal in directing the petitioners to continue the respondent in service till he attains the age of superannuation of 60 years with usual pay and allowances that are being paid.

8. Therefore, the writ petition is dismissed.

9. Consequently, miscellaneous petitions pending in the writ petition, if any, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M.GANGA RAO, J

28th December, 2017
TSNR

