

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**WRIT PETITION No.2626 of 2018**

**O R D E R :**

Heard learned counsel for the petitioner and learned Government Pleader for Services for respondents.

The petitioner was initially employed in the A.P. Scooters Limited as Typist in 1985. Thereafter, the employees like the petitioner, who were working in the said organization, were absorbed in the State Government, when the said organization became sick. Petitioner was then allotted to the 1<sup>st</sup> respondent-department by absorbing him in the State Government vide proceedings dated 28-01-1984 issued by the 1<sup>st</sup> respondent. Petitioner joined on 03-12-1994.

Subsequently, the 4<sup>th</sup> respondent issued proceedings in G.O.Ms.No.208, dated 06-07-2009 regularizing/absorbing the services of the petitioner with effect from 03-12-1994 in the cadre of Typist.

Consequently orders were issued by the 1<sup>st</sup> respondent on 20-10-2009 stating that petitioner's services have been absorbed in the Panchayat Raj Department with effect from 03-12-1994 in the cadre of Typist.

Petitioner thereafter retired on attaining of age of superannuation on 30-11-2017 as per notification dated 19-12-2016 issued by the 1<sup>st</sup> respondent.

Petitioner contends that he submitted three sets of pension papers to the 1<sup>st</sup> respondent on 21-10-2017 which were acknowledged by him, but no consequential action had been taken by respondents to sanction pension and other retrial benefits including increments, PRC arrears, medical commuted leave amount etc., Petitioner contends that this is illegal, arbitrary and violative of Article 14 and 300-A of Constitution of India.

Counter affidavit is filed by the 1<sup>st</sup> respondent on behalf of respondents 1 to 4. In the counter affidavit, it is contended that petitioner has only English Lower Typewriting qualification and he was therefore not eligible for absorption as Typist in the Panchayat Raj Department; and that the 4<sup>th</sup> respondent had erroneously absorbed the petitioner as Typist in the said department vide G.O.Ms.No.208, dated 06-07-2009. It is stated that petitioner passed Typewriting English Higher during February, 2014 and Typewriting Telugu Lower during February, 2015 and that petitioner is well aware that he is required to possess Higher Typewriting qualifications for the post of Typist. It is contended that petitioner

should possess said qualifications as per A.P. Ministerial Service Rules and since he was not having said higher qualification, he could not have been absorbed as Typist. It is also stated that a memo dated 13-04-2016 was issued to the petitioner proposing to recover certain excess amount paid to him for erroneously sanctioning of increments from 03-12-1995 to 03-12-2004; that petitioner questioned the same in O.A.No.1819 of 2016; and that it is now transferred to this Court in WPTR 5917 of 2017, and issue of regularization/absorption and sanction of increments was addressed to the 4<sup>th</sup> respondent. It is therefore stated that pension proposals of the petitioner cannot be processed.

Counsel for the petitioner contends that when the petitioner's services have already been regularized with effect from 03-12-1994 by the 4<sup>th</sup> respondent vide G.O.Ms.No.208, dated 06-07-2009 and consequential proceedings have also been issued by the 1<sup>st</sup> respondent on 20-10-2009, it is not permissible for the respondents now to reopen the said issue eight years after G.O.Ms.No.208 has been issued. More so, when no action was taken to cancel the said G.O. while the petitioner was in service. He also contends that right to pension and other benefits flow out of retirement and are

not a bounty as held by Supreme Court in several cases and that it is the right of the petitioner to get the same.

Government Pleader for Services appearing for the respondents however contends that petitioner does not have minimum service after obtaining requisite qualifications of Typewriting Higher in English in February, 2014 and therefore, he is not entitled to pensionary benefits. He does not dispute the fact that service of the petitioner has been regularized vide G.O.Ms.No.208, dated 06-07-2009 as Typist with effect from 03-01-1994 and that no action has been taken to annul said G.O. at any point of time while petitioner was in service or even till today.

Having allowed the petitioner to work as Typist in the 1<sup>st</sup> respondent-Department from 1994 till he retired on 30-11-2017, it would be travesty of justice, if respondents are now permitted to raise the issue that petitioner did not possess requisite qualifications when he was so absorbed vide G.O.Ms.No.208, dated 06-07-2009 eight years after the petitioner retired from service. Therefore, I am unable to accede the contention of learned Government Pleader for Services.

Once the 4<sup>th</sup> respondent issued proceedings in G.O.Ms.No.208, dt.06-07-2009

regularizing/absorbing the petitioner as Typist with effect from 03-12-1994, and the 1<sup>st</sup> respondent had issued consequential proceedings dated 20-10-2009, it is not open to the respondents to reopen said issue at this distance of time.

Accordingly, writ petition is allowed and action of the respondents in not sanctioning the pension and retrial benefits including commuted value of medical leave and annual grade increments for the period 2015 and 2016 is declared as illegal, arbitrary and violation of Article 14 and 300-A of Constitution of India and respondents are directed to forthwith sanction and release retrial benefits including commuted value of medical leaves and annual grade increments pertaining to year 2015 and 2016 to the petitioner within two weeks from the date of receipt of a copy of this order with interest @ 8% per annum from 30-11-2017 till date of actual payment.

Consequently, Miscellaneous Petitions pending if any, shall stand closed.

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**M.S. RAMACHANDRA RAO, J**

13-03-2018  
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