

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

W R I T P E T I T I O N No.7880 OF 2015

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The State of Andhra Pradesh and its authorities in the Panchayat Raj Department filed this writ petition aggrieved by the order dated 29.01.2015 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.451 of 2015. The said O.A. was filed by respondents 1 to 7 herein assailing the action of the authorities in not releasing periodical annual grade increments to them on par with others similarly situated. A consequential direction was sought to the authorities to forthwith release their periodical annual grade increments from the date they were granted minimum time scale of pay. By the order dated 29.01.2015, the Tribunal observed that the issue was squarely covered by its earlier order dated 16.03.2011 passed in O.A.No.1507 of 2011, which was confirmed by this Court *vide* order dated 30.08.2011 passed in W.P.No.23197 of 2011, and allowed the O.A. directing the authorities to grant annual grade increments to the applicants in the time scale wherein their pay was fixed and also pay them arrears. The authorities were further directed to extend to the applicants the benefit of further pay revision from time to time. This exercise was directed to be completed within a time frame.

By order dated 09.07.2015, this Court granted interim suspension of the order under challenge. W.V.M.P.Nos.3254 of 2015 and I.A.No.1 of 2018 were filed by the unofficial respondents, the applicants in the O.A., to vacate the said order.

Respondent No.3 expired during the pendency of this writ petition and his legal representative was brought on record as Respondent No.9.

Heard the learned Government Pleader for Services, State of Andhra Pradesh, and Sri N.Sreedhar Reddy, learned counsel, along with Sri Ch.Satish Kumar, learned counsel, both appearing for the unofficial respondents.

We are informed that the Andhra Pradesh Capital Region Development Authority (APCRDA), Vijayawada, complied with the earlier order dated 16.03.2011 passed by the Tribunal in O.A.No.1507 of 2011, which was confirmed by this Court in W.P.No.23197 of 2011. Perusal of the letter dated 09.10.2018 addressed by the Commissioner of the APCRDA to the Executive Engineer, Panchayat Raj Institutions Division, Guntur, demonstrates that in the light of the confirmation of the order dated 16.03.2011 passed in O.A.No.1507 of 2011, the Government, under its letter dated 22.10.2011, had permitted the Vice-Chairman, VGTMUDA, Vijayawada, to release the periodical increments, inclusive of arrears, to the 16 Last Grade Service employees, who were the applicants in O.A.No.1507 of 2011, with effect from 11.06.2003.

In the light of the aforestated compliance with the order passed by the Tribunal in O.A.No.1507 of 2011, which was followed by the Tribunal in the case on hand, we find no grounds to either interfere on merits with the order under challenge or re-adjudicate the issue once again.

However, the learned Government Pleader would point out that in like circumstances, another Division Bench of this Court, *vide* order dated 10.08.2017 passed in W.P.No.26788 of 2017, restricted the entitlement to arrears of similarly situated employees only from the date of filing of their O.A. and not from an anterior date.

A copy of the said order is placed on record.

Perusal thereof reflects that the learned Government Pleader had submitted to the Court that it may consider limiting the grant of annual grade increments to the petitioners therein to a reasonable past period as the relief of payment of arrears, if granted from the time of extension of minimum time scale to them, would cause a huge burden on the exchequer. Upon this submission, the Division Bench observed as under:

“Though in strict sense, the petitioners are entitled to all the arrears, keeping in view the fact that they have approached the Tribunal only in the year 2013 and also the public interest, we restrict the said benefit only from the date of filing of the said O.A. by the petitioners. The Writ Petition is, accordingly, allowed in part to the extent indicated above. The respondents shall revise the minimum time scale of pay of the petitioners by adding the annual grade increments as and when they fell due from time to time.”

It is on the strength of the aforestated observations that the learned Government Pleader would assert that a similar restriction should be placed on the entitlement of the unofficial respondents herein.

We are however not persuaded to agree for the following reasons: In W.P.No.26788 of 2017, the petitioners were the last grade service employees who were unsuccessful before the Tribunal, as O.A.No.3132 of 2013 filed by them was dismissed. They were therefore before this Court seeking release of annual grade increments from the time they were placed on minimum time scale. The case on hand differs on facts, inasmuch as the Tribunal allowed the O.A. filed by the unofficial respondents herein applying its earlier order dated 16.03.2011 passed in O.A.No.1507 of 2011. They were therefore not asking for relief before this Court as were the petitioners in W.P.No.26788 of 2017. That apart, we

find that the Division Bench did not lay down any principle to the effect that in all such cases, entitlement should be restricted to the date of filing of the O.A. On the other hand, the observation by the Division Bench to the effect that the petitioners before it, in the strict sense, were entitled to all the arrears, would indicate that it was only on the facts and circumstances of that case that the Division Bench restricted the grant of relief from a particular date. It is well settled that the *ratio* laid down by a Bench would ordinarily be binding upon a co-ordinate Bench. However, no principle was laid down by the Division Bench in the context of the subject issue in the order dated 10.08.2017 in W.P.No.26788 of 2017, which would constitute *ratio decidendi*.

Further, the applicants in O.A.No.1507 of 2011 also sought release of annual grade increments from June, 2003. The said relief was granted to them and the letter dated 09.10.2018 of the Commissioner of the APCRDA, Vijayawada, demonstrates that they were duly paid such increments with effect from 11.06.2003, notwithstanding the fact that they approached the Tribunal only in the year 2011. The unofficial respondents in the case on hand are identically situated to the applicants in O.A.No.1507 of 2011 and they were granted relief by the Tribunal only on the strength of the order passed in O.A.No.1507 of 2011. There can therefore be no discrimination between them. We are informed that the unofficial respondents would be entitled to release of annual grade increments from the year 2009 though they filed the O.A. in the year 2015. It may also be kept in mind that they rendered service to the State all through the said period and it is not as if they were asking for monetary benefits for a period during which they remained out of service. It may also be kept in mind that they are Last Grade Service employees

and the argument that payment of arrears to them would be a huge burden to the exchequer is not tenable, as the Government, being a role model employer, ought not to have exploited such Last Grade Service employees without giving them the benefit of annual grade increments.

In these circumstances, we find no reason to restrict the entitlement of the unofficial respondents to arrears only from the date of filing of their O.A.

The writ petition is accordingly dismissed. Interim order dated 09.07.2015 shall stand vacated. The order of the Tribunal shall be implemented within six weeks from the date of receipt of a copy of this order. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

Date: 11.10.2018
IBL