THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.41094 OF 2014 AND 12730 OF 2016 AND C.C.No.400 OF 2017

COMMON ORDER:

These two writ petitions are being disposed of by this common order as the petitioner in both the writ petitions is the same and his grievance is about re-fixation of pay scale and consequent to the same, recovery of the excess amount paid to him from the salary.

The writ petition No.41094 of 2014 was filed challenging the proceedings of the second respondent, dated 10.01.2013 in re-fixing the pay scale of the petitioner in grant-in-aid post and confirming the same by the first respondent by order, dated 16.11.2014.

The writ petition No.12730 of 2016 was filed challenging the action of the respondents in recovering the amount of Rs.15,000/- per month from the salary of the petitioner without notice.

The contempt case No.400 of 2017 was filed alleging violation of the order of the interim stay of recovery of the amount pursuant to the re-fixation of the pay scale of the petitioner, dated 15.06.2016, passed in W.P.M.P.No.15955 of 2016, in W.P.No.12730 of 2016.

The petitioner states that he was initially appointed as Assistant Teacher (SGT) in un-aided post in the second respondent school in the pay scale of Rs.1010-1800/- with effect from 26.11.1988 by proceedings of the second respondent on 20.11.1988. The same was incorporated in the service register of the petitioner. Subsequently, he was absorbed to grant-in-aid post with effect from 01.04.1992 as sanctioned by the then Andhra Pradesh Government vide G.O.Rt.No.354, dated 05.03.1992. As on that date, the petitioner was having qualification of B.Com., B.Ed. He states that he

is eligible for the post of SGT and also for the post of School Assistant. In those circumstances, when the pay of the petitioner was re-fixed after he obtained M.A. Telugu qualification, by proceedings of the second respondent, dated 10.01.2013 and the same was confirmed by the first respondent, by order, dated 06.11.2014, these two orders are challenged as stated above.

The order of the first respondent, dated 06.11.2014, reads as follows:-

> "After receipt of the report from the Deputy Educational Officer, Narayanpet, reference 4th cited and after detailed examination of the case with reference to the ACT No.37 of 2005, dated 29.10.2005, the following orders have been passed.
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> "The orders issued by the Correspondent, DVM Aided High School, Narayanpet, vide reference 5th cited is hold good".
>
> Acknowledge the receipt of the proceedings and original Service Book of Sri C.Narayan Reddy, Telugu Pandit Grade II, DVM Aided High School, Narayanpet, by next post."

Learned counsel for the petitioner submits that the said order was passed by the first respondent without giving any opportunity and merely following the order of the second respondent. He drew the attention of this Court to various proceedings and the same is disputed by the learned Government Pleader as well as the learned counsel for the second respondent.

In the absence of any notice to the petitioner before passing the order, dated 06.11.2014, this Court is constrained to set aside the order of the first respondent, dated 06.11.2014, and remanding the matter to the first respondent for considering the case of the petitioner in the light of the order passed by the second respondent on 10.01.2013 by affording an opportunity of hearing and pass

appropriate orders in accordance with law within a period of three months from the date of receipt of a copy of this order.

In view of the setting aside the order of the first respondent, dated 06.11.2014, the interim stay of recovery of the amount, pursuant to the re-fixation of the pay scale of the petitioner, from the salary of the petitioner, granted on 15.06.2016, in W.P.M.P.No.15955 of 2016 in W.P.No.12730 of 2016, shall continue till final orders are passed by the first respondent.

The writ petitions are accordingly partly allowed. Consequently, miscellaneous petitions, if any pending, in these writ petitions, shall stand closed. There shall be no order as to costs.

In view of the above, no further orders are necessary in the contempt case and the contempt case is accordingly closed.

A.RAMALINGESWARA RAO, J

23.02.2018
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