

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

WRIT PETITION No.11522 OF 2018

ORDER

(per Hon'ble Sri Justice Sanjay Kumar)

The petitioners are the applicants in O.A.No.3082 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. By order dated 12.12.2017, the Tribunal dismissed the O.A. Their prayer in the said O.A. was to extend to them the minimum time scale of pay attached to the posts of Class IV employees. They claimed that they were working as part-time contingent employees on consolidated pay in the Commercial Taxes Department at Vijayawada for more than 25 years. Their grievance was that despite their length of service, the authorities did not extend to them the minimum time scale payable to Class IV employees.

The Tribunal however opined that as the petitioners/applicants were part-time contingent employees, they could not claim the benefit of time scale of pay on the basis of SECRETARY, STATE OF KARNATAKA V/ s. UMADEVI¹ and STATE OF PUNJAB V/ s. JAGJIT SINGH² and dismissed their O.A.

Sri Venkateshwarlu Gummadavelly, learned counsel for the petitioners/applicants, and the learned Government Pleader for Services, State of Andhra Pradesh, would inform this Court that the issue is no longer *res integra*. Order dated 01.02.2016 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.3168 of 2014 and the order dated 10.07.2017 passed by this Court in W.P.No.20900 of 2017, confirming the said order of the Tribunal, are placed on record.

¹ (2006) 4 SCC 1

² (2017) 1 SCC 148

The applicants in O.A.No.3168 of 2014 sought regularization of their services with all consequential benefits. However, the Tribunal found that they were not entitled to regularization in service but held them entitled to the minimum time scale of pay. Aggrieved thereby, the State preferred W.P.No.20900 of 2017 before this Court. By order dated 10.07.2017, this Court took note of the fact that minimum time scale had been extended to employees by the Government under G.O.Ms.No.243 dated 06.11.2015. following the orders of this Court in W.P.No.25834 of 2013. and accordingly confirmed the order passed by the Tribunal.

It may be noted that the contention of the State before this Court was that the applicants in O.A.No.3168 of 2014 were not Non-Muster Roll employees as they worked only during the night time and were thus part-time employees. This Court observed that by rendering service during the night time, such employees would work for more hours than those employed during the day time and by no stretch of imagination, could they be termed to be part-time employees. Referring to the law laid down by the Supreme Court in *UMADEVI*¹, this Court concluded that those who had been appointed on daily wage basis should be paid wages equal to the salary at the lowest grade of employees in that cadre. Extension of the minimum time scale to the applicants in O.A.No.3168 of 2014 was accordingly confirmed. The decision of this Court stood confirmed as the Supreme Court dismissed Special Leave Petition (Civil) No.4727 of 2018 preferred by the State on 09.03.2018 holding that it was not inclined to interfere with the impugned judgment and order.

We are of the opinion that no fresh adjudication is called for in the light of the aforestated decision.

For reasons alike as were set out in the above order and in terms thereof, the writ petition is allowed setting aside the order dated 12.12.2017 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.3082 of 2017 and directing the respondents to extend to the petitioners/applicants the minimum time scale, revised from time to time, applicable to the lowest grade of Class IV employees in the Commercial Taxes Department at Vijayawada. The petitioners/applicants shall be entitled to this benefit only from the date of filing of the O.A. Arrears payable in terms of this order shall be remitted to them within four weeks from the date of receipt of a copy of this order, failing which the same shall carry interest at the rate of 9% per annum from the date of expiry of the time stipulated till realization.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

M.GANGA RAO,J

12th April, 2018

PGS