

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22744 of 2006

ORDER :

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondent Nos.1 and 2 in not taking any action against the undue delays and losses caused to the petitioners by respondent Nos.3 and 4 in payment of retiral benefits on giving effect to the revision of pay scales from time to time as illegal, arbitrary, void and contrary to the statutory requirements and consequently to direct 1st and 2nd respondents to take appropriate action including penal action against 3rd and 4th respondents to see that the retiral benefits due and payable to the petitioners are duly paid by 3rd and 4th respondents.

Heard Sri M.R.K. Chowdary, learned Senior Counsel appearing on behalf of Sri P.V.Mahesh counsel for petitioner, the learned Government Pleader for Education, appearing for 1st and 2nd respondents and Sri Ch.Adams, learned counsel for 3rd and 4th respondents.

It has been contended by the petitioners that they are all retired employees of 3rd and 4th respondent-Institutions. The petitioners further submit that they are entitled for pensionary benefits and respondents 3 and 4 were pleased to sanction pension to the petitioners and the same was disbursed to the petitioners upto 1993. However, during September 1993, respondents 3 and 4 were belatedly releasing the monthly pension payable to the petitioners. The petitioners have submitted a representation to respondents 1 and 2, complaining that respondents 3

and 4 were not disbursing the pension on month-to-month basis regularly, which is causing lot of inconvenience to the petitioners. The principal grievance of the petitioners is that though respondents 1 and 2 are competent authorities under A.P. Education Act, they are not taking any action against respondents 3 and 4 for not disbursing monthly pension from time to time.

Counsel appearing for petitioners submits that respondents 3 and 4 have given an undertaking to respondents 1 and 2 way-back in 1964 that they would extend pay scales and pensionary benefits to its employees on par with Government employees and only when such an undertaking was given by respondents 3 and 4, the respondents 1 and 2 have granted permanent recognition and permission to respondents 3 and 4 to run the educational institutions. The counsel further submits that respondents 1 and 2, who are competent authorities and who are supposed to enforce the A.P. Education Act, are not taking any action against respondents 3 and 4 when respondents 3 and 4 are violating the Rules made under A.P. Education Act. Therefore, appropriate direction be issued to respondents 1 and 2 to initiate penal action against respondents 3 and 4 for violating the service conditions of the petitioners and also for not disbursing pension on month-to-month basis.

The learned Government Pleader for Education submits that the petitioners were employees of respondents 3 and 4 and the petitioners were employed in un-aided service. When the petitioners were employed in unaided service, it is for respondents 3 and 4 to pay salary and pension

according to the service Rules of respondents 3 and 4. Respondents 1 and 2 cannot initiate any action against respondents 3 and 4 for not disbursing pension on month-to-month basis. There are no merits in the writ petition and the same is liable to be dismissed.

Learned counsel appearing for respondents 3 and 4 contends that respondents 3 and 4 are private educational institutions and petitioners were engaged in unaided posts and the salaries and terminal benefits of the petitioners were disbursed as per the bye-laws of respondents 3 and 4. The petitioners have no right to receive pension on month-to-month basis. When there were surplus funds with respondents 3 and 4, they disbursed pensionary benefits, but the present state of respondents 3 and 4 is not economically viable to pay pension on month-to-month basis to the petitioners. There are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions of the parties, this Court is of the considered view that this writ petition can be disposed of directing respondents 1 and 2 to examine the case of petitioners in terms of the Rules framed under A.P. Education Act and cause an inquiry into the affairs of respondents 3 and 4, and in the ensuing inquiry, if it emerges that the petitioners are entitled for payment of pension, appropriate action be initiated against respondents 3 and 4 for non-payment of pensionary benefits to the petitioners. Respondents 1 and 2 shall examine the case of petitioners by duly taking into account para 7 of the counter affidavit filed by them before this Court.

With these observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

11th December 2018

ajr

