

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

WRIT PETITION NO.30817 OF 2012

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The erstwhile Government of Andhra Pradesh and its Commissioner of Technical Education filed this writ petition aggrieved by the order dated 20.10.2011 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), in O.A.No.7533 of 2003. The said O.A. was filed by the respondent herein assailing Para 8(ii)(d) of G.O.Ms.No.72, Higher Education (TE.2) Department, dated 26.09.2002, whereby it was stipulated that the revised scales of pay would not be applicable to those who, on their own, left the service of the department on or after 01.01.1996 to join other departments, where the All India Council for Technical Education (AICTE) Scales of Pay, 1996 were not in force. He sought a further direction to the authorities to extend to him the benefit of the AICTE Scales of Pay, 1996 till 17.12.1997 with all consequential benefits. By the order under challenge, the Tribunal held in his favour and disposed of the O.A. directing the authorities to extend to him the benefit of the AICTE Scales of Pay, 1996 from 01.01.1996 to 17.12.1997 with all consequential benefits. Hence, this writ petition by the authorities.

By order dated 03.10.2012, this Court granted interim suspension of the order under challenge. W.V.M.P.No.2465 of 2013 was filed by the respondent-applicant to vacate the said order. Heard the learned Assistant Government Pleader for Services, Telangana, for the petitioners, and Sri J.R.Manohar Rao, learned counsel for the respondent. As comprehensive arguments were advanced by both sides, the matter is amenable to final disposal at this stage.

The respondent-applicant joined Government service as an Associate Lecturer in English in the Government Polytechnic for Women, Medak, on 22.08.1988. His post was then re-designated as that of a Lecturer with effect from 01.01.1986. He worked as such till 17.12.1997. He was selected for the post of Assistant Audit Officer in the Andhra Pradesh Local Fund Audit Service in the direct recruitment undertaken by the Andhra Pradesh Public Service Commission in the year 1997 and was accordingly relieved from the post of Lecturer in English on 17.12.1997. While so, the pay scales applicable to various teaching posts in the Technical Education Department were revised on par with the AICTE Scales in the year 1998. The respondent-applicant was also given the benefit thereof and the arrears due to him from 01.04.1997 to 17.12.1997 were paid to him, *vide* proceedings dated 28.08.1999. The AICTE Scales however underwent further revision and in consequence, the Government of Andhra Pradesh issued G.O.Ms.No.72 dated 26.09.2002, whereby instructions were put in place as to the modalities to be followed in implementing the Andhra Pradesh Revised AICTE Scales of Pay, 1996. The upward revision of pay scales thereunder took effect from 01.01.1996 notionally, with monetary benefit coming into effect from 01.04.1999. The complaint of the respondent-applicant was that he was not given the benefit of the upward revision effected under G.O.MsNo.72 dated 26.09.2002, owing to Para 8(ii)(d) therein. Para 8(ii)(d) reads as under:

‘The scales of pay shall however be not applicable to those who have left the services from the Department on their own will/resigned/opted for relief to join other departments in Central/State/Quasi Government/Private service etc., on or after 1.01.1996 and where All India Council for Technical Education scales of pay, 1996 are not in force.’

Aggrieved by the denial, he approached the Tribunal by way of the subject O.A. The stand of the authorities before the Tribunal, as reflected in their counter-affidavit, was that as the respondent-applicant left the department on 17.12.1997 voluntarily, he was not eligible to the AICTE Revised Pay Scales, 1996 in terms of Para 8(ii)(d) of G.O.Ms.No.72 dated 26.09.2002. They however did not offer any justification for inserting the said restriction in the Government Order.

The Tribunal took note of the fact that, in the first instance, the matter was heard resulting in the dismissal of the O.A. *vide* order dated 01.05.2009, which was however set aside by this Court by order dated 31.01.2011 in W.P.No.32020 of 2010, requiring the Tribunal to hear the matter afresh. Adverting to the admitted fact that the respondent-applicant worked in the department as a Lecturer till 17.12.1997, the Tribunal noted that further revision of the pay scales under G.O.Ms.No.72 dated 26.09.2002 would only have notional effect from 01.01.1996, as monetary benefit came into effect only from 01.04.1999. The Tribunal also noted that under Para 6 of G.O.Ms.No.72 dated 26.09.2002, dealing with 'Coverage and Applicability', the Government stipulated that the revised pay scales shall be applicable to all the teaching staff, Librarians and Physical Directors who were drawing AICTE Scales of 1986 working in Government Polytechnics, State-wide Institutions, including Officers of the same category working at Commissionerate of Technical Education and in the offices of the Regional Directorates of Technical Education/State Board of Technical Education and Training. The Tribunal therefore opined that all the employees working in any of the categories mentioned, as on 01.01.1996, would be eligible to the revised pay scales and as the respondent-applicant was very much in service as on that date and remained to be so till 17.12.1997, he could not be

excluded by taking recourse to Para 8(ii)(d) of G.O.Ms.No.72 dated 26.09.2002. The Tribunal also noted the fact that the respondent-applicant had rendered service to the department for more than 9 years, as he was appointed in 1988 and served the department up to 17.12.1997, and he was also granted the pay scales under AICTE, 1996. The Tribunal found no logic in the denial of the revised AICTE Scales of Pay, 1996, to him under Para 8(ii)(d) of G.O.Ms.No.72 dated 26.09.2002. On this analysis, the Tribunal held in favour of the respondent-applicant and granted him relief.

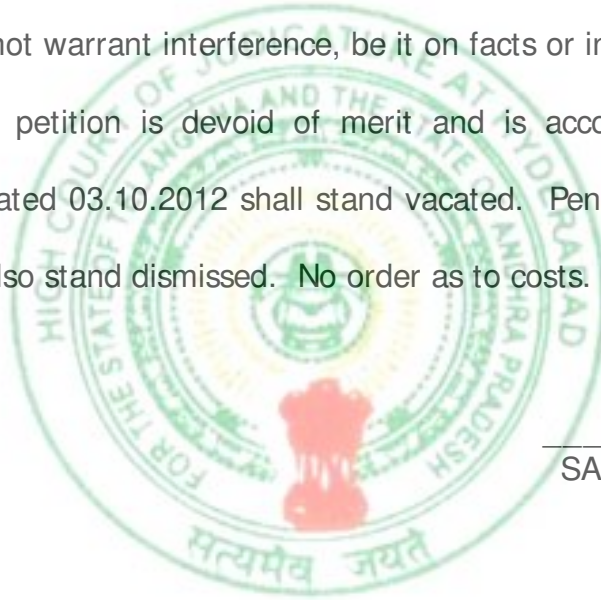
Sri J.R.Manohar Rao, learned counsel, would impress upon this Court that the respondent-applicant would only have the benefit of notional revision of his pay scale by virtue of G.O.Ms.No.72 dated 26.09.2002, as the monetary benefit thereunder was to be given effect only from 01.04.1999, and by that date the respondent-applicant had already left the department. He would state that by virtue of such notional revision, the respondent-applicant would have certain other benefits, which he is now denied.

Learned Assistant Government Pleader for Services would state that the respondent-applicant was disentitled to even notional revision of the pay scales owing to Para 8(ii)(d) of G.O.Ms.No.72 dated 26.09.2002. He however has no explanation to offer as to the apparent conflict between Para 6 and Para 8(ii)(d) of G.O.Ms.No.72 dated 26.09.2002.

It is not the case of the authorities that there was any rider that the respondent-applicant should remain in service in the department for a particular period of time and he acted in violation thereof. He admittedly worked in the department from August, 1988 till December, 1997. As on the date of his departure from the department also, he was not put on notice that he would be denied any relief in relation to the period that he had worked. Significantly, the arrears due to the respondent-applicant upon

extending to him the AICTE Scales of Pay, 1996 were settled and paid under the proceedings dated 28.08.1999. That being so, this Court is at a loss to understand as to how the authorities can deny him the notional revision of pay under the revised AICTE Scales of Pay from 01.01.1996 till 17.12.1997. When an employee rendered service in a department and left it voluntarily for his own advancement, without breaking any rule or condition, he cannot be denied the benefits of service relatable to the former department for the period that he worked. Therefore, Para 8(ii)(d) of G.O.Ms.No.72 dated 26.09.2002 was not only arbitrary but bereft of logic and rationale. The order of the Tribunal holding to this effect and granting relief to the respondent-applicant does not warrant interference, be it on facts or in law.

The writ petition is devoid of merit and is accordingly dismissed. Interim order dated 03.10.2012 shall stand vacated. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

27th APRIL, 2018

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