

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

WRIT APPEAL No.1128 OF 2018

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

Sri Padmavathi Mahila University, Tirupati, and its Vice Chancellor are in appeal aggrieved by the order dated 26.04.2018 passed by a learned Judge of this Court in W.P.No.8076 of 2018, whereby they were directed to release full pension to the first respondent-writ petitioner as per rules.

Perusal of the record reflects that W.P.No.8076 of 2018 was filed by the first respondent-writ petitioner challenging the proceedings dated 30.11.2017, whereby the University granted her 75% of the normal pension. It appears that the first respondent-writ petitioner was reverted from the post of Superintendent to that of Senior Assistant and by proceedings dated 08.10.2010, the University informed her that an audit objection had been taken with regard to the excess amounts paid to her but the matter of waiving recovery was under correspondence with the State Government. W.P.No.25982 of 2010 was filed by the first respondent-writ petitioner assailing the said proceedings dated 08.10.2010. By interim order dated 20.10.2010 passed therein, this Court took note of the fact that the University had not issued any notice to the first respondent-writ petitioner before reverting her with retrospective effect and accordingly granted interim suspension as prayed for. This Court however left it open to the University to revert the first respondent-writ petitioner after following the procedure prescribed by law and in accordance with the rule of 'last come first go'. By order dated 07.01.2011, the University again reverted the first respondent-writ petitioner from the post of Superintendent to that of Senior Assistant after

issuing her a notice and calling for an explanation. Aggrieved thereby, she filed W.P.No.2268 of 2011 before this Court. By interim order dated 07.02.2011, this Court directed the University to continue her in service as a Superintendent until further orders.

The first respondent-writ petitioner attained the age of 58 years and the University attempted to relieve her from service. She again approached this Court by way of W.P.No.19868 of 2017. By interim order dated 20.06.2017 passed therein, this Court directed the University to continue the first respondent-writ petitioner in service till she attained the age of 60 years. She was accordingly continued in service and retired on 30.06.2017 upon completing the age of 60 years. The University however deemed it appropriate to release only 75% of her pension in the light of the pendency of the earlier litigation.

Before the learned single Judge, the University relied upon Rule 52(1)(a) of the Andhra Pradesh Revised Pension Rules, 1980, to justify this action. The learned Judge however found that the said Rule had no application whatsoever as the first respondent-writ petitioner was not under suspension on the date of her retirement in terms of the said Rule. Further, the learned Judge took note of the fact that the first respondent-writ petitioner remained in service till she attained the age of 60 years and there was no justification to deny her full pension and other benefits due as per rules. The learned Judge accordingly disposed of the writ petition directing the University to release the full pension as per rules subject to further orders in the writ petitions which are still pending consideration before this Court.

Sri Vimal Varma Vasireddy, learned counsel for the appellants, would contend that in the event the reversion of the first respondent-writ petitioner from the post of Superintendent to that of Senior Assistant is

upheld in the pending cases, the appellants would be hard put to recover the full pension paid to her treating her as a Superintendent. Learned counsel would however concede that there is no legal frame work or basis for the University at this stage to withhold the full pension anticipating that it would succeed in the pending litigation in relation to the reversion.

In case such an eventuality arises, the learned Judge has already noted that payment of full pension would be subject to orders in the pending litigation. At that stage, the University would have to initiate appropriate measures in accordance with law, if warranted. At this stage, no cause is made out for the appellants to withhold the full pension due and payable to the first respondent-writ petitioner. The order of the learned Judge holding to this effect therefore does not warrant interference.

The writ appeal is devoid of merit and is accordingly dismissed.

We are informed that the order of the learned Judge has not been given effect to till date. The appellants shall endeavour to implement the said order expeditiously and in any event, not later than four 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

Dt: 23.08.2018
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