

HON'BLE SRI JUSTICE SANJAY KUMAR

AND

HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1109 OF 2018

JUDGMENT (ORAL) : (Per Hon'ble Sri Justice Sanjay Kumar)

The Government of Telangana and its Commissioner of Collegiate Education are in appeal aggrieved by the order dated 19.03.2018 passed by a learned single Judge of this Court allowing W.P. No.15579 of 2014. The said writ petition was filed by respondent No.1 herein assailing the action of the Government of Telangana in not regularizing his services in the existing grant-in-aid post of Lecturer in Commerce in Pragathi Maha Vidyalaya Degree College, Hyderabad - respondent No.2 herein, with all consequential benefits from the date of his eligibility for absorption in the said post.

2. By the order under appeal, the learned single Judge held that the case of the respondent No.1 - writ petitioner squarely fell within the ambit of G. O. Ms. No.328 dated 15.10.1997 and therefore, denial of regularization of his services was unsustainable. The learned single Judge accordingly allowed the writ petition with costs of Rs.5,000/-.

3. Though Sri Andepalli Sanjeeva Kumar, learned Special Government Pleader appearing for the learned Additional Advocate General for the State of Telangana, would contend that the respondent No.1 - writ petitioner did not comply with the requirements of G.O. Ms. No.328 dated 15.10.1997 inasmuch as he did not put in service of three

(3) academic years as on 30.07.1991 or five (5) academic years as on 25.11.1993, we are of the opinion that this aspect of the matter no longer survives for consideration in the light of the order dated 20.10.2009 passed by a Division Bench of this Court in W.A. No.332 of 2008 filed by the then Government of Andhra Pradesh along with the Directorate of Collegiate Education, Andhra Pradesh; as modified by the order dated 18.06.2010 in Review W.A.M.P. No.2798 of 2009 in W.A. No.332 of 2008. This writ appeal was filed against the order dated 04.10.2007 in W.P. No.1969 of 2005 filed by respondent No.1 - writ petitioner herein.

4. In terms of the aforesaid modified order, the earlier direction of the Division Bench in the writ appeal that the Government should satisfy itself as to whether the respondent No.1 - writ petitioner fulfilled the conditions laid down in G.O. Ms. No.328 dated 15.10.1997 i.e., whether he had completed three (3) years of service by 30.07.1991 or five (5) years of service as on 25.11.1993, stood modified to read to the effect that the Government has to examine as to whether the respondent No.1 - writ petitioner had fulfilled the requirement of 360 working days as on 30.07.1991 or 600 working days as on 25.11.1993. It is not in dispute that the aforesaid order of the Division Bench stood confirmed by the Supreme Court when the S.L.P. (Civil) preferred by the then Government of Andhra Pradesh along with the Directorate of Collegiate Education of Andhra Pradesh, being C.C. No.13420 of 2012 was dismissed by the Supreme Court vide order dated 31.07.2013 not only on the ground of limitation but also on merits. That being so, it is no longer open to the authorities to raise the issue of completion of three (3)

academic years or five (5) academic years, as the case may be, in relation to the years 1991 and 1993. All that could be looked into by them was as to whether the respondent No.1 - writ petitioner completed 360 working days by 30.07.1991 or 600 working days by 25.11.1993. Insofar as this aspect is concerned, the communication of the Commissioner of Collegiate Education, Andhra Pradesh, dated 03.12.2003 addressed to the Principal Secretary to the Government, Higher Education Department, bears out that the respondent No.1 - writ petitioner completed 708 days by 25.11.1993.

5. Another aspect that has been raised by the authorities is the fact that G.O. Ms. No.328 dated 15.10.1997 contains a stipulation that it would automatically stand annulled after expiry of the period of six (6) months time, within which all eligible cases were to be considered and appropriate orders were to be passed in terms of the said G.O.

6. We are however of the opinion that even if the said G.O. did not survive beyond the period of six (6) months, it would be squarely applicable to and remain alive for all those who applied for the benefit thereof but were denied the same erroneously. Insofar as such persons are concerned, the said G.O. would survive notwithstanding the expiry of the stipulated six (6) months period.

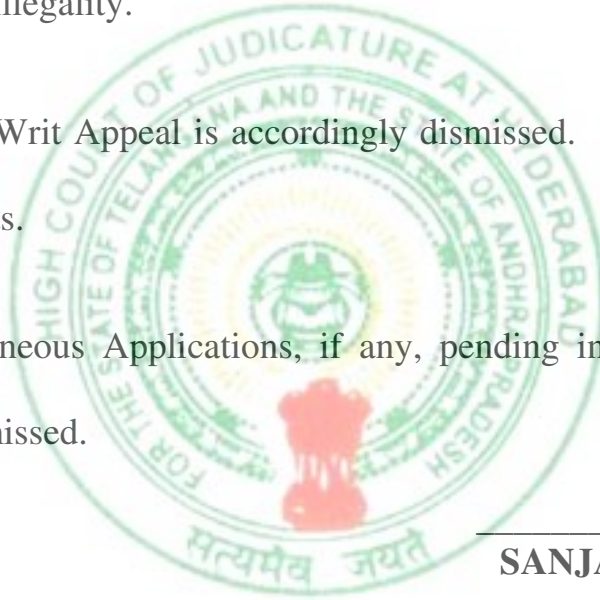
7. Lastly, the argument advanced before the learned single Judge and reiterated before us to the effect that the respondent No.1 - writ petitioner had to put in 120 days only in each academic year is liable to be rejected. Mention of the period of 120 days in paragraph No.5 of

G.O. Ms. No.328 dated 15.10.1997 is only in the context of quantifying the minimum period of 360 working days or 600 working days, as the case maybe. The said period of 120 days does not find mention as a minimum stipulation for each academic year as is now contended. The order of the learned single Judge holding to this effect therefore does not warrant any interference.

8. On the above analysis, this Court finds no grounds to entertain this appeal as the order under appeal does not suffer from any irregularity or illegality.

9. The Writ Appeal is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Applications, if any, pending in this writ appeal also stand dismissed.



SANJAY KUMAR, J

M. GANGA RAO, J

September 6, 2018.
PV