

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

WRIT PETITION NO.31018 OF 2018

ORDER

(Per Sri Justice Sanjay Kumar)

The petitioners are part-time Junior Lecturers working in Government Junior Colleges in Kurnool, Kadapa, Anantapur and Chittoor Districts of the State of Andhra Pradesh. They filed O.A.No.3180 of 2016 before the Andhra Pradesh Administrative Tribunal, Hyderabad (*for brevity*, 'the Tribunal'), assailing the action of the authorities in the Education Department of the State in not releasing annual grade periodical increments to them from the date they were granted minimum time scale of pay, on par with others. They sought release of such increments from the date they were granted time scale of pay. However, by order dated 16.11.2017, the Tribunal dismissed the O.A.

Challenging the said order and the action of the authorities in not releasing periodical annual grade increments to them with effect from the date they were paid minimum time of scale, as per G.O.Ms.No.352, Education (I.E.I) Department, dated 01.10.1994, they filed the present writ petition. They also sought a consequential direction to the authorities to forthwith release their increments with effect from the date they were paid minimum time scale in terms of G.O.Ms.No.352 dated 01.10.1994.

Heard Sri P.V.Krishnaiah, learned counsel for the petitioners, and the learned Assistant Government Pleader for Services, State of Andhra Pradesh, for the respondents.

The petitioners were appointed as part-time Vocational Junior Lecturers in Government Junior Colleges as long back as in the years 1991/1992/1993 and have been working as such since then. They were

extended the minimum of the time scale of pay under proceedings dated 22.09.1997 of the Commissioner and Director of Intermediate Education, Andhra Pradesh, subject to three conditions, *viz.*, that they should be in service as on 25.11.1993; that they should be working with 16 periods of workload; and they should be working against a regular vacancy or where the work justified the appointment of a regular Junior Lecturer. It was their contention before the Tribunal that as they were granted the minimum of the time scale with dearness allowance and had been working continuously since their entry in service, they should be extended the benefit of increments for each year of service rendered by them on par with others who were granted such relief.

The Commissioner of Intermediate Education, Andhra Pradesh, however contested their claim alleging that such relief had been granted to NMRs working in Municipal Corporations and therefore, the petitioners could not claim parity with them.

The Tribunal, having considered these rival pleadings, drew a distinction between a regular Junior Lecturer as opposed to a part-time Junior Lecturer on the basis of the number of working hours and agreed with the Commissioner that they could not claim parity with those who were granted the benefit of payment of increments. It was on the strength of this reasoning that the Tribunal dismissed the O.A.

At this stage, it may be noted that the Tribunal had earlier allowed O.A.Nos.1507 of 2011 and 6286 of 2014 directing the authorities to grant annual grade increments to NMR Office Subordinates, Drivers and Last Grade Service Employees. It may also be noted that in W.P.No.26788 of 2017, this Court made the following observations in its final order dated 10.08.2017.

“In the light of the above discussion, we are of the opinion that as the petitioners have been extended the minimum time scale, they are entitled to addition of increments from time to time in the minimum time scale without being entitled to all others allowances which a regular employee is entitled.

The learned Government Pleader for Services (Andhra Pradesh) submitted that the Court may consider limiting the grant of annual grade increments to the petitioners to a reasonable past period as, the relief of payment of arrears, if granted from the time of extension of the minimum time scale to the petitioners, would cause huge burden on the exchequer.

Though in strict sense, the petitioners are entitled to all the arrears, keeping in view the fact that they have approached the Tribunal only in the year 2013 and also the public interest, we restrict the said benefit only from the date of filing of the said O.A., by the petitioners. The Writ Petition is, accordingly, allowed in part to the extent indicated above. The respondents shall revise the minimum time scale of pay of the petitioners by adding the annual grade increments as and when they fell due from time to time.”

This *ratio* was affirmed and applied by another Division Bench in W.P.No.26467 of 2018, *vide* order dated 31.07.2018. The petitioners in the said writ petition were H.R.Workers/Job Typists.

Taking note of the submission of Sri P.V.Krishnaiah, learned counsel, that though regular vacancies were available in the posts of Junior Lecturers, the State was not taking up recruitment to the said posts and was continuing the petitioners in service on part-time basis, utilizing their services on par with if not above regular Junior Lecturers, this Court directed the learned Government Pleader to file a detailed affidavit as to the number of regular posts of Junior Lecturers available in the colleges in which the petitioners were working and as to the number of vacancies, if any, available in such regular posts as on date. This order was passed on 29.11.2018. Pursuant thereto, the Commissioner, Intermediate Education, Andhra Pradesh, filed additional affidavit in December, 2018. Therein, the details sought by this Court were furnished in a tabular form.

District	Name of the College	How many regular lecturers are there in vocational Stream?	How many total regular vacancies?	How many Part time posts?	How many filled up?	How many vacant
KURNOOL	GJC, Atmakur	NIL	06	06	02 part time Junior Lecturers are working on part time basis (MTS) and 10 Contract faculty are working	04
KURNOOL	GJC, Nandi-kotkur	NIL	05	05	02 part time Junior Lecturers are working on part time basis (MTS) and 08 Contract faculty are working	03
KURNOOL	GVJC, Kurnool	02	07	07	05 part time Junior Lecturers are working on part time basis (MTS) and 09 Contract faculty are working	02
KADAPA	GJC, Raya-choti	NIL	04	04	01 part time Junior Lecturer is working on part time basis (MTS) and 07 Contract faculty are working	03
ANANTHA-PURAM	GJC, Urava-konda	NIL	05	06	01 part time Junior Lecturer is working on part time basis (MTS), 01 part time junior lecturer is working on hourly basis, and 8 Contract faculty are working, 01 Guest faculty are working	04
ANANTHA-PURAM	GJC, Chila-mathur	01	02	03	01 part time Junior Lecturer is working on part time basis (MTS), 01 part time junior lecturer is working on hourly basis, and 03 Contract faculty are working.	01
CHITTOOR	GVJC, KUPPAM	NIL	15	15	01 part time Junior Lecturer is working on part time basis (MTS), and 29 Contract faculty are working.	14
CHITTOOR	GJC (G), MADAN APALLI	NIL	03	03	01 part time Junior Lecturer is working on part time basis (MTS), 01 junior lecturer is working on Deputation (from Medical department) and 04 Contract faculty are working	01

The aforestated particulars amply demonstrate that the Government colleges in Kurnool, Kadapa, Anantapur and Chittoor Districts are being run without regular Junior Lecturers. Part-time Lecturers and contract faculty are being utilized by these Government colleges to impart education. The Government, being a model employer, apart from having the duty to make effective provision for securing the right to education, under Article 41 of the Constitution, is not expected to run Government Junior Colleges in the manner that it is doing. That apart, Article 39 of the Constitution requires the State to direct its policy towards securing the right of adequate means of livelihood to all its citizens apart from ensuring that there is equal pay for equal work for both men and women. As to whether the State is justified in maintaining part-time teaching posts when it does not deem it appropriate to fill in regular vacancies is one aspect of the matter but the more worrying issue is how those who are appointed on part-time or contract basis are exploited by no less than the mighty State to secure ephemeral Constitutional objectives at lesser cost.

Be it noted that the specific averment of the petitioners that they are made to work between 24 to 36 hours per week and not 16 hours, as observed by the Tribunal, was not even contested by the Commissioner of Intermediate Education, Andhra Pradesh, in her counter-affidavit filed in November, 2018. By saddling them with the nomenclature 'part-time', it is not open to the State Government to utilize the services of the petitioners on par with or over and above regular Junior Lecturers and then seek to discriminate against them on the strength of such nomenclature, when it comes to pay and allowances. When this Court found it appropriate to grant relief to NMR employees of the State and also Municipal Bodies,

teachers who are being exploited by the State cannot be held disentitled to the same relief.

Be it noted that under G.O.Ms.No.352 dated 01.10.1994, the Government of Andhra Pradesh permitted making of part-time arrangements to meet extra work-load arising out of casual substantive vacancies. This G.O. did not intend that such part-time arrangements should be perpetuated or propagated by doing away with the regular recruitment so as to achieve the State's purpose of imparting education in the garb of a welfare State by exploiting such part-time/contract teachers.

In STATE OF PUNJAB V/s. JAGJIT SINGH¹, applying the principle of equal pay for equal work to temporary employees, on account of their performing the same duties as were discharged by regular employees against sanctioned posts, the Supreme Court observed that the principle of equal pay for equal work has been expounded upon interpretation of different provisions of the Constitution as an employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities and certainly not in a welfare State. The Supreme Court pointed out that such an action, besides being demeaning, strikes at the very foundation of human dignity, while noting that anyone who is compelled to work at a lesser wage does not do so voluntarily but does so to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self-worth and at the cost of his integrity, for he knows that his dependents would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situated, *per* the Supreme Court, constituted an act of exploitative enslavement emerging out of the

¹ (2017) 1 SCC 148

domineering position of the State. Though the aforestated observations were made in the context of grant of wages at the minimum of the pay scale which was extended to regular employees holding the same post, the essence and spirit underlying these observations would be applicable to grant of increments to part-time teachers on par with regular teachers.

Further, as already pointed out *supra*, there is no contest from the authorities that the petitioners are rendering services on par with, if not over and above, those of regular Junior Lecturers. Once their assertion in this regard is left un rebutted, the principle of equal pay for equal work would be squarely attracted and they cannot be denied the benefit of being treated on par with regular employees in all respects and all the more so, when they have been rendering service for more than two and a half decades.

Richard Howard, an American Poet, aptly summed up that teachers need to be given the respect that they deserve because they are the ones who can help you get where you need to go. Teaching has also been categorized as a profession that teaches all other professions. A society which does not respect its teachers must fear for its existence as teachers lay the foundations for the future. The State, being a model employer, cannot set an adverse example by exploiting and abusing its teachers.

On the above analysis, this Court finds that the reasoning of the Tribunal is wholly unsustainable on facts as exploitation of the petitioners by the State is clearly demonstrated and it is manifest that their services are being utilized on par with, if not over and above, the services of regular Junior Lecturers. The order dated 16.11.2017 passed by the Tribunal in O.A.No.3180 of 2016 is accordingly set aside.

However, as the petitioners sought relief only in the year 2016 by filing the subject O.A. before the Tribunal, adopting the logic applied by this Court in W.P.No.26788 of 2017, we restrict the benefit of grant of increments to them only from the date of filing of the said O.A. The respondent authorities shall revise the minimum time scale of pay along with dearness allowance being paid to the petitioners by adding annual grade increments as and when they fell due from time to time since that date. Arrears due to the petitioners in terms of this order shall be remitted expeditiously and in any event, not later than eight weeks from the date of receipt of a copy of this order.

The writ petition is accordingly allowed to the extent indicated above. 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

31st DECEMBER, 2018

PGS