

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

WRIT PETITION No.32729 OF 2018

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

By way of this writ petition, the petitioner seeks implementation of the order dated 05.07.2012 passed by this Court in W.P.No.10254 of 2012, whereby the order dated 15.03.2011 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.2424 of 2008 filed by him stood confirmed.

By the order dated 15.03.2011, the Tribunal directed the respondents in the aforesaid O.A. to regularize the services of the petitioner-applicant as an Electrician with effect from 01.07.1999, being the date on which a vacancy arose in the said post. He was however held entitled to only notional fixation of pay and not arrears of pay. Challenging the said order, the Nellore Municipal Corporation, the third respondent in the O.A. and the fourth respondent herein, filed W.P.No.10254 of 2012 before this Court and by order dated 05.07.2012 passed therein, this Court observed that there was no dispute that the vacancy had arisen on 01.07.1999 and that the petitioner-applicant had necessary qualifications to have his services regularized with effect from that date.

Though the learned Assistant Government Pleader for Services, State of Andhra Pradesh, would concede that the aforesaid order passed by this Court in W.P.No.10254 of 2012 has attained finality, he would seek time to file a counter.

We are not willing to accede to his request. Having allowed the order passed by the Tribunal to attain finality and having suffered dismissal of the writ petition filed thereagainst, it is not open to the

respondent authorities to lay a challenge to the validity of the said order in the present writ petition whereby the petitioner-applicant seeks implementation thereof. Be it noted that merely because the petitioner-applicant did not choose to initiate contempt proceedings before the Tribunal in relation to the aforestated order within the stipulated time, it does not have the effect of nullifying the order. Such failure on his part would only afford immunity to the respondent authorities from any action being initiated against them under contempt jurisdiction and no more. It does not have the effect of invalidating the order to the extent that the authorities can state with impunity that they need not abide thereby.

It may also be noted that historically a writ of *scire facias* was hitherto available in English Jurisprudence to implement an earlier writ. There is no reason why this Court should not adopt the same principle as the order passed by the Tribunal, which has attained finality, would not fade away into oblivion merely because of passage of time and it would be as binding upon the respondents as an order of recent origin.

The writ petition is accordingly allowed directing the respondent authorities to give effect to and implement the order dated 15.03.2011 passed by the Tribunal in O.A.No.2424 of 2008, which stood confirmed by this Court by order dated 05.07.2012 passed in W.P.No.10254 of 2012. This exercise shall be completed expeditiously and in any event, not later than six weeks from the date of receipt of a copy of this order.

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

Date: 25.10.2018
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