

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

WRIT APPEAL NO.1573 OF 2018

ORDER: (per SK,J)

The appellant is the petitioner in W.P.No.16193 of 2002. The said writ petition was dismissed by a learned Judge of this Court, *vide* order dated 29.08.2018, on the short ground that the petitioner therein retired from service during the pendency of the writ petition and that the cause in the writ petition did not survive.

The prayer of the appellant in the said writ petition was to quash the Award dated 15.09.2000 passed by the Labour Court, Godavarikhani, in I.D.No.136 of 1997 and for consequential relief. In turn, the issue raised by him in I.D.No.136 of 1997 was with regard to the deferment of his annual increment for two years with cumulative effect and also the treatment of the period that he remained out of service, consequent to the earlier order of removal from service, i.e. from May, 1994 to August, 1995, as 'not on duty'.

As the reduced punishment of deferment of the annual increment of the appellant for two years with cumulative effect would have the effect of permanently reducing him to a lower stage in the time scale and would have an impact not only on his salary during his service but also upon his pensionary benefits, the learned Judge was not correct in assuming that his retirement from service had the effect of rendering the cause in the writ petition infructuous. Further, the treatment of the period that he remained out of service as 'not on duty' would also have financial implications. The writ petition therefore did not become infructuous upon the retirement of the appellant from service.

The appeal is accordingly allowed setting aside the order dated 29.08.2018 passed in W.P.No.16193 of 2002. The said writ petition is restored to the file and shall stand remanded for consideration afresh on its own merits and in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR,J

Date:27.11.2018

GJ

M.GANGA RAO,J

