

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

WRIT PETITION No.30587 OF 2010

ORDER: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

Heard the learned Senior Counsel for the petitioner, the learned Standing Counsel for the High Court for respondent Nos.1 and 3 and the learned Government Pleader for Services for respondent No.2.

2. The petitioner is a Judicial Officer governed by the provisions of the Andhra Pradesh State Judicial Services Rules, 2007; for short, 'SJS Rules'; which have been made in exercise of power under Articles 233, 234, 235 and 237 read with the proviso to Article 309 and the proviso to Clause (3) of Article 320 of the Constitution of India. Rule 19 among those Rules provides the Conditions of service. It reads as follows:

- (a) Pay and allowances: Pay and allowances of members of the service shall be as recommended by the National Judicial Pay Commission from time to time and accepted by the Government.
- (b) A member of the service shall be eligible for such leave and leave salary and such traveling allowance as is admissible to the member of the Indian Administrative Service governed by the All India Service Leave Rules, 1955 for the time being in force.
- (c) A member of the service shall be eligible for the other pensionary benefits regulated under the All India Service (death-cum-retirement benefits) Rules, 1958, which are in force at the time of his appointment.
- (d) The A.P. Civil Services (Classification, Control and Appeal) Rules, 1991, the A.P. Civil Services (Conduct)

Rules, 1964, the Fundamental Rules, the A.P. Leave Rules, 1933 and the Pension Rules for the time being in force shall insofar as they may be applicable, and except to the extent expressly provided in these Rules, govern members of the service in the matter of their pay, allowances, leave, leave salary, pension and other conditions of service.

3. Thus, while pay and allowances of the members of the service shall be as recommended by the National Judicial Pay Commission from time to time and accepted by the Government, different rules, including those in Clause (d) of Rule 19, including the Fundamental Rules are made applicable; would apply. Thus, Fundamental Rule 22 B along with its proviso becomes applicable. Therefore, there is no room for any controversy; and, the benefit of Fundamental Rule 22 B read with the proviso thereto would apply to those members of the service who are governed by the SJS Rules. G.O.Ms.No.60 dated 07.05.2003 issued by the Government of Andhra Pradesh pursuant to the recommendations of the National Judicial Pay Commission provides, among other things, for Assured Career Progression Scales. Whatever enures on the basis of the ACP Scales as provided in that Government Order would fall within Clause (a) of Rule 19 of the SJS Rules which provides that pay and allowances of the members of the service shall be as recommended by the National Judicial Pay Commission from time to time and accepted by the Government. The provision for ACP Scales is thus made a component as applicable to the Officers to which that would apply in terms of G.O.Ms.No.60 dated 07.05.2003. Therefore, there is no

warrant for any exclusion of the benefit of Fundamental Rule 22 B as regards emoluments that would be available in terms of that Rule and the proviso thereto.

4. In view of aforesaid reasons, this Writ Petition is ordered declaring that the Judicial Officers are entitled, on promotion, to the benefit of pay as per Fundamental Rule 22 B in terms of Rule 19(d) of the SJS Rules read with G.O.Ms.No.60 dated 07.05.2003. The impugned decisions of the Government and the communication of the Registry which are contrary to this declaration are hereby set aside. Consequential action shall be taken by the High Court and the Government to make available such benefits as may be available to be released.

Pending miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

28.02.2019

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