

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.14695 of 2005

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the 1st respondent in not granting the benefit of condoning the gap period from 12.08.1987 to 23.03.1994 for the purpose of granting annual grade increments, arrears of salary, re-fixation of pay, seniority, etc., to the petitioner on par with other similarly situated persons, as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently direct the 1st respondent to condone the gap period from 12.08.1987 to 23.03.1994 for the purpose of granting annual grade increments, arrears of salary, re-fixation of pay, seniority, etc., to the petitioner.

2. Heard Sri A. Satya Prasad, learned senior counsel appearing for the petitioner and Government Pleader for Education.

3. It has been contended by the petitioner that initially she was appointed as Secondary Grade Teacher (SGT) in Shree Mukunda Upper Primary School, Bakaram, Hyderabad, in aided vacancy on 21.02.1978. While, she was discharging her duties as SGT, the District Educational Officer (DEO) had accorded permission to retrench her services from the school, vide order, dated 12.08.1987. Thereafter, the DEO had issued proceedings, dated 23.02.1988 reinstating the petitioner into service. But, however, the management of Shree Mukunda Upper Primary School, Bakaram, had not

reinstated the petitioner into service. Then the DEO had transferred the petitioner along with her post to Bala Vignana Kendram Upper Primary School, Aliabad, vide proceedings, dated 02.07.1989. But, the management of Bala Vignana Kendram Upper Primary School has also refused to take her into service. Then the petitioner has submitted a representation to the Commissioner and Director of School Education and the Commissioner was pleased to issue proceedings on 18.03.1994 by posting her to the 5th respondent school-Sharada Vidyalaya High School for girls, Hyderabad and she had joined the 5th respondent school on 24.03.1994. Thereafter, the petitioner has submitted a representation requesting the respondents to condone the gap period from 12.08.1987 to 23.03.1994 for the purpose of annual grade increments, arrears of salary, re-fixation of pay, seniority, etc., and the government had issued a memo, dated 06.12.2004, condoning the gap period from 12.08.1987 to 23.03.1994 only for the purpose of pensionary benefits, but not other benefits. Challenging the action of respondents in not considering the gap period from 12.08.1987 to 23.03.1994, for the purpose of granting annual grade increments, arrears of salary, re-fixation of pay, seniority, etc., the present writ petition is filed.

4. Learned counsel for the petitioner submits that the respondents ought to have treated the gap period for the purpose of all the benefits to which the petitioner is entitled. But, the respondents have condoned the gap period only for the purpose of pensionary benefits. Therefore, appropriate orders be passed in the writ petition directing

the respondents to consider the case of the petitioner for condoning the gap period for the purpose of granting annual grade increments, arrears of salary, re-fixation of pay, seniority etc.,

5. Learned Government Pleader appearing for the respondents had submitted that the petitioner was initially retrenched from service on the ground of merger of classes, and when the student strength of Shree Mukunda Upper Primary School had improved, the DEO had ordered reinstatement of the petitioner and directed Shree Mukunda Upper Primary School to reinstate the petitioner into service. But, the said school has not admitted the petitioner into duty and thereafter the DEO had issued an order transferring the petitioner to Bala Vignana Kendram Upper Primary School, vide proceedings, dated 02.07.1989 and the said Bala Vignana Kendram Upper Primary School has also refused to take the petitioner into service. Finally, the petitioner was posted to 5th respondent school vide proceedings, dated 18.03.1994, and pursuant to the order passed by the Commissioner of School Education, the petitioner has reported to duty on 24.03.1994 and since the petitioner has not worked from 1987 to 1994, she is not entitled for grant of annual grade increments, arrears of salary, re-fixation of pay and seniority. He further contended that the respondents had rightly condoned the gap period only for the purpose of pensionary benefits and denied the other benefits. Therefore, there are no merits in the writ petition and the writ petition is liable to be dismissed.

6. This Court, having considered the rival submissions of the learned counsel for respective parties, is of the considered view that

the respondents, vide memo, dated 06.12.2004, had condoned the gap period from 12.08.1987 to 23.03.1994 for the purpose of pension only and not considered the case of petitioner for the purpose of granting annual grade increments, arrears of salary, re-fixation of pay and seniority, etc.. Since the respondents have not considered the case of the petitioner for grant of annual grade increments, arrears of salary, re-fixation of pay, seniority, etc., this Court is of the considered view that ends of justice would be met if this writ petition is disposed of directing the petitioner to submit a fresh representation before the respondents within two weeks from the date of receipt of a copy of this order, for the purpose of granting annual grade increments, arrears of salary, re-fixation of pay, seniority, etc, and, if any such application is filed, the respondents shall consider the same and pass appropriate orders in accordance with law within eight weeks thereafter.

7. With these observations, the writ petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

ABHINAND KUMAR SHAVILI, J

9th September 2019

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