

**THE HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION No.1246 OF 2020**

**DATED : 22.01.2020**

Between :

S. Malkaiah S/o.Narasaiah,  
Aged about 73 yrs, Occu : Retired Grade-I  
Hindi Pandit, Zilla Parishad High School,  
Makloor, Makloor Mandal,  
Nizamabad District, R/o.H.No.1-1-368/1,  
Bheemuni Dubba (Atukula Girni),  
Koratla Post and Mandal,  
Jagityala District  
(Old Karimnagar District) 505 326

.....Petitioner

And

The State of Telangana,  
Rep., by its Principal Secretary,  
School Education Department,  
Telangana Secretariat, Hyderabad & others.

.....Respondents

The Court made the following:

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**ORDER:**

Heard learned counsel for the petitioner and learned Government Pleader for School Education for respondents.

2. Petitioner was appointed as Secondary Grade Basic Training (SGBT) Teacher on 25.09.1964, later converted as Grade-II Hindi Pandit with effect from 07.10.1969. He was promoted as Grade-I Hindi Pandit on 25.06.1982. The promotion to Grade-I, was anti-dated to 05.01.1978, on par with his juniors. Petitioner was awarded Special Grade Post Scale, with effect from 05.01.1988, on completion of 10 years of service and Special Adhoc Promotion Post (SAPP) Scale with effect from 26.06.1993 on completion of 15 years of service. In the Revised Pay Scale of the year 1999, petitioner reached maximum pay of pay band of Rs.5,980-12,100. In accordance with the Government decision vide G.O.Ms.No.152, Finance and Planning (F W: P C.I) Department, dated 04.11.2000, he was granted three annual grade increments for three years starting from the year 2000 and accordingly, he reached the pay of Rs.13,450/-. Petitioner completed 24 years of service in Grade-I, without securing any promotion and reached maximum of the pay band i.e., Rs.13,450/- by the time he retired from service on 30.06.2003.

3. After the retirement, petitioner has been pursuing his claim to grant 24 years Automatic Advancement Scheme increment and annual grade increment due as on 05.01.2003.

According to petitioner there was lot of correspondence among various authorities.

4. Petitioner earlier filed W.P.No.553 of 2019 seeking declaration against not awarding 24 years SAPP-II Increment and annual grade increment; not issuing appropriate orders for considering the claim of petitioner and incidental reliefs. During pendency of the above writ petition, petitioner was informed about the proceedings dated 24.01.2019. Accordingly the Writ Petition was withdrawn with liberty to challenge the proceedings dated 24.01.2019. This Writ Petition is filed challenging the order of the District Educational Officer (DEO), Nizamabad, dated 24.01.2019.

5. By the order impugned in this writ petition, the DEO informs the petitioner that he has already reached the maximum of pay band and was granted three additional increments. Therefore, he is not entitled to the 24 years SAPP-II, as claimed by him.

6. Learned counsel for the petitioner submits that though the Revised Pay Scale Rules of the year 1999, do not provide grant of increments, Government has got power to relax such requirement and grant the prayer sought by the petitioner. According to him, petitioner's is the solitary case and no other person has reached the maximum of the pay band and suffered denial of SAPP-II and additional increments, even though petitioner is otherwise entitled to. In support of his contention that entitlement to draw increment accrued during the service cannot be denied, learned counsel placed reliance on the

decision of Madras High Court in W.P.No.14401 of 2005 dated 22.02.2012.

7. A careful consideration of submissions of learned counsel for the petitioner, two aspects are required to be noticed to appreciate the said contentions. Accepting the recommendations of Pay Revision Commission, Government notified Andhra Pradesh Revised Scales of Pay Rules, 1999, vide G.O.(P) No.114 Finance and Planning (FW:P.C-I) Department dated 11.08.1999, governing the regulation of pay in accordance with the Revised Pay Scales of the year 1999.

8. Paragraph No.13 of G.O.(P) No.114 provides that "No stagnation increments shall be allowed beyond the time scale in the Revised Pay Scales 1999". These orders of Government are not under challenge and in terms thereof, an employee who may be otherwise entitled to receive stagnation increments, cannot claim to draw the stagnation increments, if granting of such increments would be beyond the time scale in the Revised Pay Scales, 1999.

9. Admittedly, petitioner reached the maximum of the pay band in the 1999 Pay Scales. It is also appropriate to note that having regard to the representation made by the Association representing the employees, Government issued orders in G.O.Ms.No.152 Finance & Planning (FW:P.C-I) Department dated 04.11.2000, sanctioning three stagnation increments beyond the time scale of the Revised Pay Scales. In terms thereof, three stagnation increments were granted to the petitioner, even though G.O.Ms.No.114 imposed bar on grant of stagnation increments Government has relaxed this requirement

and extended the benefit to several employees including the petitioner. This does not mean that the condition imposed in Paragraph No.13 has become otios, in so far as the claim of the petitioner is concerned. The Orders in G.O.Ms.No.152 are applicable to the limited extent. In terms of Paragraph No.13 of G.O.Ms.No.114, as admittedly, petitioner has reached the maximum time scale of pay band as per the 1999 Revised Pay Scales he is not entitled to claim additional increments beyond the pay band. This was the issue considered by the DEO and reply was furnished which is impugned in this writ petition. I do not see any error in the decision arrived at by the DEO, warranting interference by this Court.

10. Learned counsel for the petitioner sought to contend that when the matter was referred to the Government by the Commissioner, the Government remitted the matter to Commissioner/Director of School Education holding that he is the person responsible to take decision on the issue and matter should not be referred to Government on these aspects. Learned counsel therefore, contends that Commissioner ought to have taken decision, and he is having discretion to grant additional increments, in view of the Government Memo dated 07.09.2015.

11. From a reading of the Government Memo dated 07.09.2015, it is seen that Government was not happy on referring the matter to it. It wanted the Commissioner to take decision. Earlier when the proposals were invited from the lower authorities, Commissioner sought clarification and in view of the orders of the Government, Commissioner in turn directed the

DEO, to take decision as he is the competent authority. Merely because Government directed the Commissioner to take decision does not mean that the Commissioner is required to take decision, on his own and cannot authorize his subordinates to take appropriate decision. The decision taken is not with reference to any policy frame work affecting the issue which is contrary to the decision already taken by the Government. What is emphasized by the DEO in the order impugned is as per Revised Scales of Pay Rules 1999, notified vide Government order in G.O.Ms.No.114. Therefore, the order is not vitiated on that ground.

12. According to learned counsel for the petitioner, Government is competent to relax the provisions of Revised Pay Scales of the year 1999 and G.O.Ms.No.114. As can be seen from the Memo dated 07.09.2015, apparently, the Government was not inclined to exercise power to grant relaxation extending additional benefits claimed by the petitioner, and therefore remitted the matter to Commissioner to take decision.

13. Therefore, I do not see any merit to entertain the writ petition and keep the writ petition pending, more particularly, having regard to the fact that the issue relates back to the year 2003. Writ Petition is accordingly, dismissed. Pending miscellaneous petitions, if any, shall stand closed.

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**P.NAVEEN RAO,J**

22<sup>nd</sup> January, 2020

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