

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT APPEAL No.1095 of 2008

JUDGMENT: *(Per the Hon'ble Sri Justice Abhinand Kumar Shavili)*

Aggrieved by the order dated 25.06.2008 passed in W.P.No. 2853 of 2006 by the learned Single Judge, the present writ appeal has been filed.

Heard Sri V.Hari Haran, learned counsel appearing for the appellant and Sri Nandigam Krishna Rao, learned Standing Counsel appearing for the respondents.

It is the case of the appellant that he was appointed as a Teacher in a Private Aided Institution viz., Ramachandra High School, Kothagudem, on 01.08.1961. Subsequently, he was appointed as Secondary Grade Teacher in the Educational Institutions established by Singareni Collieries on 04.06.1976. Later, he was transferred to another school under the control of respondents, which was unaided post and finally, he was retired from service on 30.09.1995. His grievance is that the respondents have not counted

the unaided service for the purpose of fixing pensionary benefits. Hence, he filed W.P.No.2853 of 2006 before this Court and learned Single Judge has dismissed the same *vide* order dated 25.06.2008 on the ground that the appellant has not worked in aided vacancy from 1976 to 1995 and the unaided service cannot be counted for the purpose of fixing his pension. Aggrieved by the same, the present writ appeal is filed.

Learned counsel appearing for the appellant has drawn our attention to Memo dated 13.08.2003, wherein a similarly situated Teacher who was working with the respondents has rendered some extent of service in aided post and when the unaided service was not counted for the purpose of pension, the said employee has filed W.P.No.33485 of 1998 before this Court and this Court *vide* order dated 23.06.2000 held that the unaided service has to be regularized for the purpose of pensionary benefits. Based upon the said judgment, the State Government has issued Memo dated 13.08.2003 and regularized the unaided service for the purpose of pensionary benefits. But in the instant case, the learned Single judge has not

appreciated this fact and mechanically dismissed the said writ petition. Therefore, appropriate orders be passed in the writ appeal directing the respondents to regularize the unaided service rendered by the appellant for the purpose of pensionary benefits and refixing the pension of the appellant.

Learned counsel for the appellant had informed this Court that during pendency of the present writ appeal, the appellant has expired and his legal representatives were brought on record. Since the appellant has expired, let the respondents refix the pension of the appellant by duly taking into account the unaided service rendered by him and pay revised arrears of pension to his legal representatives.

Learned Standing Counsel appearing for the respondents had contended that the learned Single Judge has rightly dismissed the writ petition filed by the appellant on the ground that he has rendered service in unaided service, which cannot be counted for the purpose of pensionary benefits. Therefore, there are no merits in the writ appeal and the same is liable to be dismissed.

Learned Standing Counsel appearing for the respondents had brought to our notice that the appellant was to be paid Rs.29,537.70ps towards gratuity.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the learned Single Judge failed to appreciate the fact that unaided service rendered by the similarly situated Teacher was considered for the purpose of pensionary benefits by the State Government as well as the respondents. We do not find any reason to deviate from the Memo dated 13.08.2003 in respect of the appellant. Therefore the writ appeal is liable to be allowed.

Accordingly, the Writ Appeal is allowed and the respondents are directed to count the unaided service rendered by the appellant for the purpose of pensionary benefits and refix the pension of the appellant and pay arrears of pension to the legal representatives of the appellant within a period of four months from the date of receipt of a copy of this order. Further, the respondents are directed to pay gratuity amount of Rs.29,537.70ps in addition to the revised gratuity

payable to the appellant based upon the counting of unaided service rendered by him for the purpose of pensionary benefits. It is needless to say that if there is any delay in disbursement of gratuity, the respondents shall pay the gratuity along with interest as applicable in accordance with law.

Miscellaneous applications pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE NAMAVARAPU RAJESHWAR RAO

Date: 14.10.2022

Sus/rkk