

HON'BLE SRI JUSTICE J. SREENIVAS RAO

I.A.No.2 of 2024 in W.P.No.34923 of 2016

I.A.No.1 of 2024 in W.P.No.44425 of 2016

I.A.No.1 of 2024 in W.P.(TR)No.4658 of 2017

I.A.No.2 of 2024 in W.P.(TR) No.5161 of 2017

I.A.No.1 of 2024 in W.P.(TR) No.5338 of 2017

I.A.No.1 of 2024 in W.P.(TR) No.5394 of 2017

I.A.No.2 of 2024 in W.P.(TR) No.5396 of 2017

I.A.No.2 of 2024 in W.P.(TR) No.5400 of 2017

I.A.No.1 of 2024 in W.P.(TR) No.5909 of 2017

AND

I.A.No.2 of 2024 in W.P.(TR) No.5952 of 2017

COMMON ORDER:

Since the issue raised in these review petitions is one and the same, the same were heard analogously and were being decided by this common order.

2. For the sake of convenience, the facts in I.A.No.1 of 2024 in W.P.(TR) No.4658 of 2017 are discussed hereunder.

3. Heard Sri S.Rahul Reddy, Learned Special Government Pleader representing learned Additional Advocate General appearing on behalf of review petitioners, Sri P.Suresh Reddy, learned Senior Counsel appearing on behalf of respondent/writ petitioner in I.A.Nos.1 and 2 of 2024 in W.P.(TR) No.5161, 5338,

5394, 5396 and 5400 of 2017 and Sri Y.V.Satyanarayana, learned counsel representing Sri R.Rajasekhara Rao, learned counsel for respondent in review application i.e., I.A.No.1 of 2024 in W.P.(TR) No.4658 of 2017.

4. **Brief facts of the case:**

4.1. Facts giving rise to filing of I.A.No.1 of 2024 in W.P.(TR) No.4658 of 2017 briefly stated are that the respondent/writ petitioner was appointed as Vocational Instructor on the part-time basis by the District Selection Committee in the year 1988 on a consolidated pay which was extended from time to time and she has completed more than 24 years of service as part-time Vocational Instructor. Respondent was appointed against the sanctioned posts by the District Selection Committee through regular recruitment process. The Director of School Education, Andhra Pradesh, Hyderabad addressed a letter dated 29.09.1992 to the Government, requesting to regularise the services of part-time Vocational Instructors working under the scheme. The respondent and similarly situated employees have made representation through the association to the Government for regularisation of their service.

Accordingly, the Government has issued G.O.Ms.No.31, School Education (Prog.I) Department, dated 13.02.2009, regularising 1030 part-time Vocational Instructors working under the control of the School Education Department. Accordingly, respondent services was regularised with effect from 13.02.2009.

4.2. Respondent and similarly situated employees have approached the Andhra Pradesh Administrative Tribunal (herein after referred to as “APAT”) and filed O.A.No.8904 of 2011 and batch seeking declaration that the services rendered by them on temporary basis, right from the date of their initial appointment shall be counted for the purpose of pension and pensionary benefits. The said cases were disposed of on 24.09.2014, holding that since the applicants therein are seeking to count the services rendered by them on temporary basis only for the purpose of pension and nothing else and also keeping in view the orders passed by the High Court of Andhra Pradesh in *Devarakonda Sri Lakshmi v. Government of A.P.*¹, the tribunal is inclined to grant relief to the applicants to the extent of counting their past service prior to their

¹ 2010 (2) ALD 165

regularisation for the purpose of pension. Therefore, there shall be a direction to the respondents to pass appropriate orders keeping in view the observations for counting the past services rendered by the applicants prior to their regularisation, for the purpose of pension and pensionary benefits within a period of three (3) months from the date of receipt of a copy of the said order.

4.3. However, the Commissioner and Director of School Education, Telangana rejected the claim of the applicants therein vide proceedings Rc.No.524/Ser.III/2014, dated 31.01.2015. Aggrieved by the said rejection order respondent/writ petitioner filed O.A.No.4442 of 2015 seeking regularisation of her services from the date of her initial appointment for the purpose of pension and pensionary benefits. By virtue of abolition of APAT, the above said O.A. No.4442 of 2015 was transferred to this Court and the same was numbered as W.P.(TR) No.4658 of 2017. During pendency of the said writ petition, similar O.A's which were filed by the similarly situated persons pertaining to the State of Andhra Pradesh, pending before the APAT i.e., O.A.No.2889 of 2015 and batch, were allowed on 27.04.2017 and issued direction to

respondents therein to count the past service rendered by the applicants therein prior to their regularisation for the purpose of pension and pensionary benefits and pass appropriate order within a period of eight (8) weeks from the date of receipt of the said order. Aggrieved by the said order, the State of Andhra Pradesh filed W.P.No.1425 of 2019 before the High Court of Andhra Pradesh at Amaravathi and the Division Bench of the said Court dismissed the writ petition on 15.10.2019. Aggrieved by the same, the State of Andhra Pradesh filed SLP (Civil) Diary No(s).7474 of 2020 before the Hon'ble Apex Court and the same was dismissed by its order dated 08.02.2021. Thereupon, the State of Andhra Pradesh regularised their past services for the purpose of pension and pensionary benefits vide G.O.Ms.No.179, dated 18.11.2022 and extended service benefits in their favour.

4.4. This Court after hearing the parties and taking into consideration of the above said orders as well as the order passed in W.P.No.14855 of 2018 dated 14.11.2022 of this court, allowed W.P.(TR) No.4658 of 2017 on 22.06.2023, by setting aside the impugned rejection order dated 31.01.2015 and directed the review

petitioners to compute the services of respondent from the date of her initial appointment for the purpose of sanction of pension within a period of two (2) months from the date of receipt of a copy of the order. Aggrieved by the said order, the petitioners filed this review application seeking to review the order dated 22.06.2023.

5. Submissions of Learned Special Government Pleader for review petitioners:

5.1 Learned Special Government Pleader submitted that the respondent/writ petitioner was appointed as part-time Vocational Instructor only and her services were regularised through G.O.Ms.No.31, dated 13.02.2009 and she is not entitle to seek regularisation/counting her past service for pension or any other purpose and she is only entitled for pensionary benefits from the date of regularisation of her service to till superannuation.

5.2 He further submitted that this Court allowed W.P.(TR) No.4658 of 2017 on 22.06.2023, pursuant to the orders passed by the Division Bench of the High Court of Andhra Pradesh, in W.P.No.1425 of 2019, dated 15.10.2019 and the judgment relied in

the said case i.e., *Devarakonda Sri Lakshmi (Supra)* and the judgment of Apex Court in *State of Tamil Nadu v. T.N. Registration Department Ministerial Service Association*² are not applicable to the facts and circumstances of the case and he also submitted that this Court allowed the writ petition only basing on the concession given by the learned Assistant Government Pleader and not on merits and the same does not create right to the parties and the order passed by this Court is liable to be reviewed. In support of his contentions he relied upon the following judgments of the Hon'ble Apex Court and different High Courts in 1) **State of Tamil.Nadu. v. A. Singamuthu**³, 2) **State of H.P. v. Pinju Ram**⁴, 3) **B.H. Mahadevappa S/O Late Hanumaiah And ... vs Karnataka Power Transmission**⁵, 4) **Union of India v. Gandiba Behera**⁶, 5) **Rasiklal Manikchand Dhariwal v. M.S.S. Food products**⁷, 6) **State of Rajasthan v. Surendra Mohnot**⁸, 7) **Director of Elementary Education v. Pramod Kumar Sahoo**⁹,

² (2001) 10 SCC 473

³ (2017) 4 SCC 113

⁴ (2020) 13 SCC 809

⁵ (ILR2006KAR3405)

⁶ (2021)14 SCC786

⁷ (2012)2 SCC196

⁸ (2014)14 SCC 77

⁹ (2019) 10 SCC 674

8) Union of India v. Ilmo Devi¹⁰, 9) Director General, Doordarshan Prasar Bharti Corporation of India and another v. Magi H. Desi¹¹, 10) Ram Ganesh Tripathi v. State of U.P.¹² and 11) Surendra Kumar v. Greater Noida Industrial Development Authority¹³.

6. Submissions of Learned Senior Counsel for respondents/ Writ Petitioners:

6.1 Sri P. Suresh Reddy, learned Senior Counsel submitted that the respondents/writ petitioners were appointed by properly constituted selection committee after following entire selection procedure as a Vocational Instructors during the year 1985 to 1991 and they rendered more than 25-30 years of service and the Government issued G.O.Ms.No.31, dated 13.02.2009, regularising 1030 part-time Vocational Instructors with effect from 13.02.2009. Respondent and similarly situated employees have approached APAT and filed O.A.No.8904 of 2011 and batch for regularising their services from the date of initial appointment for claiming

¹⁰ (2021) 20 SCC 290

¹¹ (2023 SCC online SC 336)

¹² (1997) 1 SCC 621

¹³ (2015) 14 SCC 382

pension and the same was disposed of dated 24.09.2014, following the judgment in *Devarakonda Sri Lakshmi (Supra)* and issued direction to the respondents therein to consider the claim of the applicants therein to the extent of counting of their past service prior to their regularisation dated 13.02.2009 for the purpose of pension and issued further direction to respondents to pass appropriate orders keeping in view the observations, for counting the past service rendered by the applicants therein prior to their regularisation for the purpose of pensionary benefits within a period of three (3) months from the date of receipt of a copy of the said order. However, Petitioner No.2/ Commissioner and director of School Education, Telangana rejected the claim of respondent questioning the same respondent and similarly situated employees approached APAT and filed in O.A.No.2889 of 2015 and batch and APAT allowed the cases by its order dated 27.04.2017. Aggrieved by the said order, the Government filed W.P.No.1425 of 2019 before the High Court of Andhra Pradesh at Amaravathi and the said writ petition was dismissed on 15.10.2019. Thereupon, the State of Andhra Pradesh filed SLP before the Hon'ble Apex Court

and the same was dismissed on 08.02.2021 and the State of Andhra Pradesh implemented the orders passed by APAT.

6.2. He further submitted that this Court rightly allowed writ petition and issued direction to the petitioners to extend the pension and pensionary benefits to the respondents/writ petitioners by relying upon the Division Bench judgement in W.P.No.1425 of 2009 and the same is squarely applicable to the facts and circumstances of the case on the ground that the respondents/writ petitioners were also appointed as vocational instructors with same terms and conditions and their services were also regularised, pursuant to G.O.Ms.No.31, dated 13.02.2009. There is no error apparent on the face of the record to review the order passed by this Court. In support of his contentions he relied upon the judgments in Civil Appeal No. 1943 of 2022 (*Lt. Col. Suprita Chandel Versus Union Of India And Ors*).

6.3. Sri Y.V.Satyanarayana, learned counsel appearing for respondent in I.A.No.1 of 2024 in W.P.(TR) No.4658 of 2017 submitted that the review petition filed by the petitioners is not maintainable under law, as there is no error in the impugned order

passed by this Court invoking the provisions under Order 47 Rule 1 read with Section 114 of C.P.C. In support of his contentions he relied upon the judgments of *Perry Kansagra v. Smriti Madan Kansagra*¹⁴ and *Shanti Conductors (P) Ltd. v. Assam SEB*¹⁵.

7. **Analysis:**

7.1. This Court considered the rival submissions made by the respective parties and perused the material available on record. It is undisputed fact that the respondent/writ petitioner and similarly situated employees were appointed as Vocational Instructors on part-time basis on different dates during the year 1985-91 through selection process by duly sponsoring their names through employment exchange and they have continued in the service without any interruption and completed more than 25-30 years of service. The Government has issued G.O.Ms.No.31, dated 13.02.2009, regularising 1030 part-time Vocational Instructors with effect from 13.02.2009. Pursuant to the said G.O., the respondents/writ petitioners services were also regularised.

¹⁴ (2019) 20 SCC 753

¹⁵ (2020) 2 SCC 677

7.2. The records reveal that respondent along with similarly situated employees have submitted representations to the Government seeking regularisation of their services from the date of initial appointment for the purpose of pension and pensionary benefits. Thereafter, the respondent and similarly situated employees have approached the APAT by filing O.A.No.8904 of 2011 and batch, questioning the action of respondents therein in not considering the claim of the respondent/writ petitioner and similarly situated persons for regularisation of their service for the purpose of counting their past service prior to their regularisation for the purpose of pension and other pensionary benefits. APAT disposed of the said batch on 24.09.2014, relying upon the judgment in ***Devarakonda Sri Lakshmi (Supra)***. It is relevant to extract the operative portion of the order which reads as under:

“It may also to be noted that the applicants have made representations to the respondents in the month of April, 2010 and August, 2010, seeking to count their past service as regular service for the purpose of pensionary benefits. However, no orders were passed on their representations. At the time of admission of this O.A., the tribunal also issued a direction to the respondents to consider and pass appropriate orders on the representations made by some of the applicants. No orders are passed so far on the said directions.

Since the appellants are seeking to count the service rendered by them on temporary basis only for the purpose of pension and nothing else and also keeping in view of the above referred order of the Hon’ble High Court, I am inclined to grant relief to the applicant

to the extent of counting of their past service prior to their regularisation dated 13.02.2009 for the purpose of pension. Therefore, there shall be a direction to the respondents to pass appropriate orders keeping in view the above observations, for counting the past service rendered by the applicants prior to their regularisation for the purpose of pensionary benefits within a period of three months from the date of a receipt of a copy of the order. The respondents of both the states pass appropriate orders to the respective applicants falling their jurisdiction”.

7.3. However, the petitioner No.2/Commissioner and Director of School Education, Telangana rejected the claim of the respondent through proceedings Rc.No.524/Ser.III/2014, dated 31.01.2015 and also rejected the claim of the respondents/writ petitioners for regularisation of their service. Aggrieved by the said order, respondent and similarly situated employees have filed O.A.No.4442 of 2015 and batch before APAT. Subsequent to bifurcation of State of Andhra Pradesh into State of Telangana and the State of Telangana had taken a decision for abolishment of Administrative Tribunals and the matters pertaining to the State of Telangana were transferred to this Court, whereas the cases pertaining to the State of Andhra Pradesh were continued before APAT. Accordingly, O.A.No.4442 of 2015 was transferred to this Court and the same was renumbered as W.P.(TR) No.4658 of 2017. During pendency of the said writ petition, similar O.As which are filed by the similarly situated persons pertaining to the State of

Andhra Pradesh i.e., O.A.No.2889 of 2015 and batch were allowed by the APAT on 27.04.2017 by duly taking into consideration of the principles laid down in ***Devarakonda Sri Lakshmi (Supra)*** and issued direction to the respondents therein to regularise the services of the applicants therein from the date of initial appointment for the purpose of pension and pensionary benefits.

7.4. Aggrieved by the above said order passed in O.A.No.2889 of 2015, the State of Andhra Pradesh filed W.P.No.1425 of 2014 before the Division Bench of this Court and after considering the contentions of the respective parties and by relying upon the judgments in ***Devarakonda Sri Lakshmi (Supra)***, ***T.N. Registration Department Ministerial Service Association (Supra)***, ***B.H.Mahadevappa (Supra)*** and the judgment of the Division Bench of the High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh in ***State of Andhra Pradesh v. M.Raja Rao***¹⁶ dismissed the writ petition by its order dated 15.10.2019. Thereupon, the State of Andhra Pradesh filed

¹⁶ Order dated 17.03.2016 in W.P.No.8201 of 2016

SLP before the Hon'ble Apex Court and the same was dismissed on 08.02.2021 and the same has become final.

8. It is also not in dispute that subsequently the State of Andhra Pradesh implemented the order passed by APAT and extended the benefits in favour of the petitioners in O.A.No.2889 of 2015 and batch and issued G.O.Ms.No.179, School Education (Prog.I) Department, dated 18.11.2022.

9. It is not in dispute that the respondent/writ petitioner and the petitioners/applicants in O.A.No.2889 of 2015 and batch were also appointed as Vocational Instructors with very same service conditions and their services were also regularised pursuant to G.O.Ms.No.31, dated 13.02.2009.

10. The contention of the learned Special Government Pleader that APAT allowed the O.As relying upon the judgments in *Devarakonda Sri Lakshmi (supra)* and the Division Bench of the High Court of Andhra Pradesh dismissed W.P.No.1425 of 2019 relying upon the judgments of Hon'ble Apex Court and other High Courts in *T.N. Registration Department Ministerial Service*

Association (Supra), *M.Raja Rao (supra)*, *Devarakonda Sri Lakshmi (supra)* and *B.H.Mahadevappa (supra)* and those judgments are not applicable to the facts and circumstances of the case is not tenable under law, on the sole ground that the order passed by the APAT was confirmed by the Division Bench of High Court of Andhra Pradesh, as well as the Hon'ble Apex Court. This Court cannot declare that the judgments relied by the Division Bench of the High Court of Andhra Pradesh in W.P.No.1425 of 2019 are not applicable while adjudicating the proceedings under Order XLVII Rule 1 of C.P.C.

11. Insofar as the other contention raised by the learned Special Government Pleader that this Court allowed the writ petition without considering the averments made in the counter affidavit and only basing upon the concession given by the learned Assistant Government Pleader, is also not tenable under law on the ground that the respondent/writ petitioner as well as the petitioners/applicants in O.A.No.2889 of 2015 and batch are similarly situated employees and pursuant to the order of the APAT, their services were regularised for the purpose of pension

and pensionary benefits, and the judgment passed in W.P.No.1425 of 2019 is squarely applicable to the respondents/writ petitioners and the petitioners are not entitled to deny the claim of the respondents.

12. Insofar as the decisions relied upon by the learned Special Government Pleader in ***Rasiklal Manikchand Dhariwal*** (*supra*) and ***Surendra Mohnot*** (*supra*), the Hon'ble Supreme Court held that courts must exercise their discretion within the framework of the Civil Procedure Code. The Court further held that there is no estoppel against the law, and errors based on incorrect judgments or concessions can be reviewed to prevent injustice.

13. In ***T.N. Registration Deptt. Ministerial Service Association*** (*supra*), ***Director of Elementary Education*** (*supra*), ***Ilmo Devi*** (*supra*), ***A. Singamuthu*** (*supra*) and ***Gandiba Behera*** (*supra*), and ***B.H. Mahadevappa*** (*supra*) before the Hon'ble Supreme Court and the Karnataka High Court held that "equal pay for equal work" does not apply automatically to part-time or unsanctioned posts and must be consider the factors like qualifications, experience, and job nature. Part-time employees, cannot claim regularization unless

serving in sanctioned posts or under specific policies. Services of Gramin Dak Sevak (GDS) and other non-regular roles are excluded from pension calculation unless legally mandated, though temporary services must be considered if required by statutory provisions.

14. In ***Director General, Doordarshan Prasar Bharti Corporation of India and another (supra), Ram Ganesh Tripathi (supra), Pinju Ram (supra) and Surendra Kumar (supra)*** before Hon'ble Supreme Court held that contractual service is not considered temporary service for pension under Rule 13 of the CCS (Pension) Rules, 1972. Service classification is based on duties performed, and benefits from other departments require similar provisions in the organization. The Court further held that Seniority and benefits for non-regular or ad-hoc employees must adhere to statutory provisions and cannot be granted retrospectively unless explicitly provided by law or policy.

15. The above said judgments are not applicable to facts and circumstances of the case on hand on the ground that this Court disposed of the writ petition by duly taking into consideration of the

orders passed by the Division Bench in W.P.No.1425 of 2019, dated 15.10.2019, by relying upon the judgments of the Hon'ble Apex Court and other High Courts. The decision of the Division Bench was confirmed by the Hon'ble Apex Court, and this Court is not having power to give another reason while adjudicating the proceedings under Order XLVII Rule 1 of C.P.C., as the scope of review is very limited. However, the respondents/writ petitioners and applicants in O.A.No.2889 of 2015 were similarly situated employees appointed as Vocational Instructors under identical terms and conditions, and their services were regularized under G.O.Ms.No.31, dated 13.02.2009. The Division Bench of the High Court of Andhra Pradesh and APAT decided these cases by relying upon the principle laid down in *Devarakonda Sri Lakshmi (supra)*, *T.N. Registration Department Ministerial Service Association (supra)* and *M.Raja Rao (supra)* and this Court cannot take a different view in review petition.

16. In *Shri Ram Sahu (dead) through legal representatives and others vs. Vinod Kumar Rawat and others*¹⁷, *Haridas Das vs.*

¹⁷ 2020(6) ALD 222 (SC)

*Usha Rani Bank (Smt.) and others*¹⁸, and *S.Madhusudhan Reddy vs. V.Narayana Reddy and others*¹⁹, the Hon'ble Supreme Court held that the scope of review jurisdiction under Section 114 read with Order XLVII Rule 1 of C.P.C. is very limited, where error apparent on the face of record and not intended as a means for rehearing or correcting mere errors. But, it is confined only to correct self-evident errors on the face of the record. These judgments emphasizes that errors must be self-evidence and not required to intricate reasoning for detection, while strictly adhering to the grounds outlined in the C.P.C. for review.

17. It is also relevant to place on record that the Division Bench of this Court in *M. Ramulu v. Director Personnel*²⁰, while considering the judgment of the Hon'ble Supreme Court, specifically held that a party is not entitled to seek a review of judgment merely for the purpose of rehearing and fresh decision of case. A review petition cannot be equated with original hearing of case, nor can be treated as appeal in disguise. Finality of judgment delivered by Court will be reconsidered except where glaring

¹⁸ (2006) 4 SCC 78

¹⁹ 2022 (5) ALD 174 (SC)

²⁰ 2018 (2) ALD 211 (DB)

omission or patent mistake or like grave error has crept in earlier by judicial ability.

18. In *Manoranjan Prasad sinha v. Managing Committee of Delhi*²¹ the Hon'ble Supreme Court held that the power of review can be exercised for correction of a mistake and not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of powers. The review cannot be treated as an appeal in disguise. The mere possibility of two views on the subject is not a ground for review.

19. In a plethora of judgments, the Hon'ble Supreme Court as well as this Court has specifically held that the scope of review is very limited where there is an error apparent on the face of record or lack of due diligence. In the case on hand, the review application filed by the petitioners is not within the ambit of Section 114 read with Order XLVII Rule 1 C.P.C, and there is no error apparent on the face of the record.

20. For the foregoing reasons, this Court do not find any ground to review the orders dated 11.08.2023, passed by this Court in

²¹ 2013 (2) JCR 653

W.P.Nos.34923 and 44425 of 2016, 22.06.2023 in W.P.(TR) No.4658 of 2017, 17.08.2023 in W.P.(TR) Nos.5161, 5394, 5400 and 5952 of 2017, 05.10.2023 in W.P.(TR).Nos.5338 and 5396 of 2017 and 24.08.2023 in W.P.(TR).No.5909 of 2017 to exercise the powers conferred under Section 114 read with Order XLVII Rule 1 C.P.C and the same is liable to be dismissed.

Accordingly the review petitions fails and are hereby dismissed.

JUSTICE J. SREENIVAS RAO

27 -12-2024
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