

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK

Writ Petition No.35763 of 2014

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

This Writ Petition is filed by the petitioners under Article-226 of the Constitution of India seeking a 'Writ of Certiorari' by calling for records relating to the order passed by the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal'), Hyderabad in O.A.No.8831 of 2010, dated 19.03.2013 and to quash the same.

2. Heard the learned Government Pleader for Services-III, for petitioners and Mr. S.Gopal Rao, learned counsel for respondents.

3. Learned counsel for the petitioners contended that the respondent Nos.1 and 2 were initially appointed as 'Work Charge Employees', later they were absorbed into Government service. The respondent Nos.1 and 2 were seeking pay scale in the 'New Common Category' in terms of G.O.Ms.No.288, dated 17.11.1986. The case of the respondent Nos.1 and 2

was considered by the petitioners and the same was rejected vide orders dated 04.10.2010 on the ground that the respondent Nos.1 and 2 are not entitled for pay scales of regular Government employee as admittedly, the respondent Nos.1 and 2 were employed as a Work Charge Employees. Aggrieved by the said rejection orders, the respondent Nos.1 and 2 have approached the Tribunal by filing O.A.No.8831 of 2010 and the Tribunal was pleased to allow the O.A vide orders 19.03.2013 without appreciating any of the contentions raised by the petitioners. Learned counsel for the petitioners had further contended that when once the respondent Nos.1 and 2 are appointed as Work Charge Employees, they cannot be granted the pay scales of a regular Government Employee. Therefore, appropriate orders be passed in the writ petition by setting aside the orders passed by the Tribunal in O.A.8831 of 2010, dated 19.03.2013 and allow the writ petition.

4. On the other hand, learned counsel for the respondents contended that though the respondent Nos.1 and 2 were appointed initially as 'Work Charge Employees', subsequently, they were absorbed into Government Service, and once they are appointed into Government service, they are entitled for pay scales in the 'New Common Category' in terms of G.O.Ms.No.288, dated 17.11.1986 and the Tribunal was justified in allowing the O.A in favour of the respondent Nos.1 and 2. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

5. This Court, having considered the rival submissions made by the parties, is of the considered view that the Tribunal was pleased to allow the O.A in favour of the respondent Nos.1 and 2 with the following observations:

"As per the directions given by this Tribunal, the learned Government Pleader as produced No.A5/WCE/90-91/585/11, dated 30.05.1990 issued by the 1st respondent, which reads as follows:

“Sri M, Chandra Mouli (Mason) on completion of (10) years of service has opted for the rules applicable to the Government Servants vide his option 2nd cited, in terms of G.O.Ms.No.130 F&P (Ser.V) dated 18.03.1981.

He therefore regarded as Government Servant with effect from 21.08.1988 F.N on completion of (10) years of service, as per the orders contained in Para(4) of G.O. 1st read cited in his existing scale of pay and present condition of work.

Consequent on the above, he shall retire from the Government Service at the age of (58) years (being superior service) and his retirement age will be notwithstanding the age of retirement age will be notwithstanding the age of retirement, already fixed in any other orders as per (Para 5) of the G.O cited.

He shall now be eligible for all benefits on par with regular Government Servants.

Certified that necessary entry to this effect is made in the Service Register of the individual”.

The learned counsel for the applicant has produced the copy of the Proceedings issued by the Executive Engineer, R & B, Sough Buildings Division, Hyderabad in No.EC III/WCE/ 1767/DEE, dated 03.01.1992, which reads as follows:

“In pursuance of the orders issued in G.O cited above, Sri. D. Pentaiah, Man Mazdoor working at High Court Section of Sub-Division no.III (R & B) Hyderabad are hereby provincilised on completion of (10) years of service with effect from the dates noted against his name in Column No.4,5.

SI.No	Name & Design	Date of appointment	Date of completion of (10) years of service	Date from which the benefits extended
1.	Sri. D. Pentaiah, M.M. S/o. Poohaiah	01.12.1981 F.N	30.11.1991	01.12.1991 FN

He is eligible to get all the benefits from the date of completion of (10) years of service i.e., 01.12.1991 F.N on par with regular government servants as per rules.

He is informed that the provincilisation now ordered is subject to condition that if any irregularities comes to notice that his provinsiliation will be withdrawn and all the benefits given to him during the above period will be taken back and excess amount if any paid erroneously will be recovered from his pay and allowances without notice."

In the above proceedings, it was mentioned taht the applicants are eligible to get all the benefits from the date of completion of (10) years of service with effect from 21.08.1998 and 01.12.1991 respectively on par with regular Government servants as per rules.

In the light of the above orders, the contention of the respondents that the applicants are still continuing as Work Charged Employees cannot be sustained.

In view of the above, the impugned ProceedingNo.E8OA/1991/2010/852,dated 04.10.2010 of the 3rd respondent is hereby set aside. The respondents are directed to extend the benefit of Pay Scale to the applicants on par with other employees in the "New Common Category" scales in terms of G.O.Ms.No.288 Finance and Planning Department, dated 17.11.1986 as revised from time to time with effect from a due date as per G.O (P) No.508 Fin & Pig (1) Department, dated 10.06.2004 with all consequential benefits and pass appropriate orders within a period of four weeks from the dte of receipt of a copy of this order.

The O.A is allowed accordingly. No order as to costs."

The Tribunal has relied upon the proceedings, dated 30.05.1990 and 03.01.1992 wherein perusal of the record clearly discloses that the respondent Nos.1

and 2 were entitled for grant of all the benefits after completion of 10 years of service respectively and the Tribunal has merely relied upon the proceedings issued by the petitioners and rightly allowed the O.A. Therefore, this Court is not inclined to interfere with the orders passed by the Tribunal.

6. With these observations, the Writ Petition is dismissed. No costs.

7. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

PULLA KARTHIK , J

Date: 05.01.2023
prat