

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY ,THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT APPEAL NO: 1142 OF 2023

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated .
09/08/2023 in W P No 70 of 2020 on the file of the High Court.

Between:

The Project Director, District Rural Development Agency (DRDA), Nalgonda,
Nalgonda District

...APPELLANT/RESPONDENT NO.2

AND

1. S. Srinivas, S/o Satyam, Aged 45 years, Occ. Driver, O/o Project Director ,
DRDA Nalgonda, Nalgonda District

.....RESPONDENT No.1/WRIT PETITIONER

2. The District Collector, Executive Chairman, DRDA, Nalgonda , Nalgonda
District
3. The State of Telangana, Rep by its Principal Secretary, Panchayat Raj Rural
Development Department, Secretariat, Hyderabad

...RESPONDENTS

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated
in the affidavit filed in support of the petition, the High Court may be pleased to
grant stay of the judgment dated 09.08.2023 in W.P. 70 of 2020 till the disposal
of the present Writ Appeal

Counsel for the Appellant: SRI I. V. SIDDHIVARDHANA

Counsel for the Respondent No.1: SRI SANTHAPUR SATYANARAYANA RAO

Counsel for the Respondent Nos. 2&3: GP FOR SERVICES II

The Court made the following: JUDGMENT

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

WRIT APPEAL No.1142 OF 2023

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

This Writ Appeal is filed aggrieved by the order, dated 09.08.2023, passed in W.P.No.70 of 2020 by a learned Single Judge of this Court.

2. Heard Sri I.V. Siddhivardhana, learned counsel for the appellant and Sri Santhapur Satyanarayana Rao, learned counsel for respondent No.1.

3. Learned counsel for the appellant had contended that respondent No.1 was engaged as a Driver with the appellant in the month of January, 2008 and he has been discharging duties as NMR worker. Learned counsel further contended that earlier respondent No.1 approached this Court by filing W.P.No.5642 of 2015 claiming minimum time scale of pay, but respondent No.1 has withdrawn the said Writ Petition on 27.09.2018, without any liberty. While so, respondent No.1 has once again approached this Court by filing the subject W.P.No.70 of 2020 claiming minimum time scale of pay and periodical annual grade increments and the learned Single Judge of this Court allowed the

subject Writ Petition *vide* impugned order, dated 09.08.2023, by directing the appellant to forthwith pay respondent No.1 the minimum time scale of pay attached to the post of Driver and also directed to release the periodical annual grade increments from the date of proceedings issued by respondent No.2 i.e. proceedings, dated Nil.08.2013, along with arrears, without appreciating any of the contentions raised by the appellant.

4. Learned counsel for the appellant had further contended that respondent No.2 has not issued any proceedings, dated Nil.08.2013, and the same was categorically stated in paragraph No.4 of the counter affidavit filed by the appellant in the subject Writ Petition. When the appellant is disputing about the existence of the proceedings, dated Nil.08.2013, the learned Single Judge could not have allowed the subject Writ Petition by relying on the said non-existing proceedings, dated Nil.08.2013. Learned counsel further contended that earlier respondent No.1 has approached this Court by filing W.P.No.5642 of 2015 and when the said Writ Petition was dismissed as withdrawn without any liberty, respondent No.1 could not have once again approached this Court seeking the very same relief, which amounts to *res judicata*. Therefore, the learned Single Judge ought to have

dismissed the subject Writ Petition, as admittedly, respondent No.1 is not entitled to be extended the minimum time scale of pay. Therefore, appropriate orders be passed in the Writ Petition by setting aside the impugned order, dated 09.08.2023, and allow the Writ Appeal.

5. On the other hand, learned counsel for respondent No.1 had contended that respondent No.1 was appointed as a Driver with the appellant in the year 2004 and he was working in a sanctioned post since August, 2008. Learned counsel further contended that respondent No.1 earlier approached this Court by filing W.P.No.5642 of 2015 seeking to grant minimum time scale of pay. However, on the assurance given by the appellant, respondent No.1 has withdrawn the said Writ Petition. The appellant has extended annual grade increments to the time scale employees *vide* proceedings, dated 21.04.2019, and that necessitated respondent No.1 to approach this Court again by filing the subject Writ Petition contending that the appellant is trying to discriminate respondent No.1 from other NMR workers. The prayer sought in the subject Writ Petition is that though respondent No.2 issued proceedings, dated Nil.08.2013, the appellant is not extending the minimum time scale of pay and

releasing the periodical annual grade increments. Further, respondent No.1 has specifically pleaded in the subject Writ Petition that the benefit of annual grade increments was extended to similarly situated persons *vide* proceedings, dated 21.04.2019. Therefore, the learned Single Judge was justified in allowing the subject Writ Petition by directing the appellant to forthwith pay respondent No.1 the minimum time scale of pay attached to the post of Driver and also release the periodical annual grade increments from time to time.

6. Learned counsel for respondent No.1 further contended that the issue raised in the present appeal is squarely covered by the judgment rendered by the Honourable Supreme Court in the **State of Punjab and others v. Jagjit Singh** and others¹, wherein the Honourable Supreme Court has held that temporary employees are entitled to be paid 'equal pay for equal work' on par with the regularly engaged employees holding the same post. Learned counsel further contended that with regard to the contention of the appellant that respondent No.2 has not issued the proceedings, dated Nil.08.2013, the appellant has merely denied the said proceedings in the counter affidavit filed in the

¹ 2017 (1) SCC 148 (Civil Appeal No.213 of 2013, dated 26.10.2016)

subject Writ Petition. Learned counsel further contended that respondent No.2-District Collector issued proceedings, dated Nil.08.2013, extending time scale of pay to respondent No.1 and at the end of the proceedings, the District Collector has signed by putting the date as 28.08.2013. Therefore, it cannot be said that the said proceedings does not exist. In pursuance of the said proceedings, dated Nil.08.2013, the appellant is continuing respondent No.1 in service, but the appellant is not paying minimum time scale of pay and not releasing the annual grade increments to respondent No.1. Learned counsel further contended that the subject Writ Petition does not fall within the parameters of *res judicata*, as the subject Writ Petition is filed contending that the appellant is trying to discriminate respondent No.1 from other NMR workers, and on the ground of discrimination, the learned Single Judge has allowed the subject Writ Petition. Therefore, there are no merits in the Writ Appeal and the same is liable to be dismissed.

7. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that it is an admitted fact that respondent No.1 is working as NMR worker with the appellant and the appellant has extended time

scale of pay to similarly situated persons. Therefore, the learned Single Judge was justified in allowing the subject Writ Petition in favour of respondent No.1. The appellant cannot deny extension of minimum time scale of pay to respondent No.1, more so, when the appellant has extended the said benefit to similarly situated persons. Apart from this, the issue raised in the present Writ Appeal is squarely covered by the judgment rendered by the Honourable Supreme Court in **Jagjit Singh's** case (supra). Therefore, this Court is not inclined to interfere with the impugned order, dated 09.08.2023, passed by the learned Single Judge.

8. Accordingly, the Writ Appeal is dismissed. There shall be no order as to costs.

Miscellaneous Applications, if any, pending in this appeal, shall stand closed.

//TRUE COPY//

SD/-I. NAGALAKSHMI
DEPUTY REGISTRAR

SECTION OFFICER

- To,
1. Two CCs to GP FOR SERVICES II ,High Court for the State of Telangana,at Hyderabad [OUT]
 2. One CC to SRI. I. V. SIDDHIVARDHANA, Advocate [OPUC]
 3. One CC to SRI. SANTHAPUR SATYANARAYANA RAO, Advocate [OPUC]
 4. Two CD Copies
B M
GJP

CHP

HIGH COURT

DATED:01/02/2024



JUDGMENT

WA.No.1142 of 2023

DISMISSING THE WRIT APPEAL WITHOUT COSTS

⑦ CHR
16/3/24