

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

WEDNESDAY, THE EIGHTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE

PRESENT
THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE DUPPALA VENKATA RAMANA



IA.No.1 of 2019
IN
WRIT APPEAL NO: 133 OF 2019

Writ Appeal under Clause 15 of the Letters Patent preferred against the Order dated 13.12.2018 in W.P.No.12017 of 2015 on the file of the High Court.

Between:

Sri Krishnadevaraya University, Rep. by its Registrar, Ananthapuramu. 515003

...Appellant/Respondent

AND

M.Rama Mohan Reddy, S/o M.Rama Chandra Reddy, aged 33 years, Attender,
Department of Physical Education, Sri Krishnadevaraya University, Anantapuramu
515 003

...Respondent/Writ Petitioner

IA NO: 2 OF 2019

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 suspend the operation of the Order passed on 13.12.2018 in WP.No.12017 of 2015 on the file of this Honorable Court, pending disposal of the Writ Appeal.

Counsel for the Appellant: SRI M.KARIBASIAH

Counsel for the Respondents: SMT A V S LAXMI

The Court made the following: order

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA

I.A.No.1 of 2019

In/and

WRIT APPEAL NO.133 of 2019

JUDGMENT: (*per Hon'ble Sri Justice Ravi Nath Tilhari*)

Heard Sri M. Karibasaiah, learned counsel for the appellant and Ms. A.V.S.Laxmi, learned counsel for the respondent/writ petitioner.

2. The appeal is filed against the order dated 13.12.2018 in W.P.No.12017 of 2015.

3. The appeal is filed along with I.A.No.1 of 2019 for condonation of delay of 143 days in filing the appeal.

4. Any objection against the said application has not been filed by the respondent.

5. The appellant has submitted *inter-alia* in para 5 & 6 of the affidavit in support of I.A.No.1 of 2019 as under:

"5. It is submitted that the University has received the Xerox copy of the orders of the Hon'ble High Court submitted by the respondent herein. The University has waited for the orders of the Hon'ble

High Court and received later on. The Hon'ble High Court was shifted to Vijayawada after the orders are pronounced by the Combined High Court. To the best of the knowledge of the University, the appellant has not received any notice from the Hon'ble High Court admitting the case.

6. It is submitted that the filing of the present writ appeal with a delay is neither willful, intentional nor due to deliberate negligence. But due to the above facts. If the appeal is not entertained the appellant/University will be put to irreparable loss and hardship.

6. Considering the aforesaid grounds stated in the affidavit, as also submissions advanced interalia that the writ petitioner did not disclose the material filed in the writ petition, we find that the cause shown is sufficient and the writ appeal deserves to be heard on merits.

7. I.A.No.1 of 2019 is allowed condoning the delay in filing the writ appeal.

8. Heard on the merits of the appeal.

9. Learned counsel for the appellant submits that the writ petitioner/respondent No.1, filed writ petition for writ

of Mandamus declaring the action of appellant in not paying the time scale to the petitioner in pursuance of the order dated 15.06.2012.

10. By the order dated 15.06.2012 by the University, the minimum pay of Time scale (Last Grade Service) of Rs.6700/- in the RPS-2010 besides prevailing admissible D.A. from time to time, was extended to the writ petitioner w.e.f. 15.06.2012.

11. The writ petitioner's case before the writ Court was that inspite of the order dated 15.06.2012, the payment was made only for two months and then it was stopped.

12. The writ petition was disposed of directing the respondent therein (appellant) to extend minimum time scale of pay to the petitioner in terms of the order dated 15.06.2012 and pass appropriate orders within a specified time.

13. In view of such averment, we also find that the petition was filed in the year 2015 after almost three years.

14. Learned counsel for the appellant submits that the order dated 15.06.2012 which was the very basis of the petitioner's claim in the writ petition, was infact kept inabeyance by memo No.SKU/Estt/E1/TS Emp/2012 dated 17.09.2012. It provided as under:-

"In pursuance of the above, the earlier Memo issued for extension of minimum pay of Time Scale (Last Grade Service) of Rs.6,700/- P.M. in the RPS - 2010 besides prevailing admissible D.A. only from time to time to Sri M.Rama Mohan Reddy, contract employee on par with his colleagues in the reference 1st cited is kept in abeyance w.e.f. September, 2012 onwards.

However, the earlier remuneration may be paid instead of Time Scale of Rs.6,700/- plus D.A. w.e.f. September, 2012 onwards."

15. Learned counsel for the appellant submits that the said order dated 17.09.2012 was not disclosed in the writ petition.

16. Learned counsel for the writ petitioner submits that the order dated 17.09.2012 was not in the knowledge of the writ petitioner.

17. Learned counsel for the appellant is not in a position to state whether the order dated 15.06.2012 is still in abeyance.

18. Be that as it may, the fact remains that the order dated 17.09.2012, keeping in abeyance the order of 15.06.2012, was not brought to the notice of the writ Court. The judgment of the writ Court is also based solely on the order dated 15.06.2012.

19. Consequently, the writ appeal is allowed. The order dated 13.12.2018 in W.P.No.12017 of 2015 is set aside. The W.P.No.12017 of 2015 is remitted to the learned Single Judge for fresh decision.

20. We are remitting the matter so that, the parties may place on record the latest position with reference to memo dated 15.06.2012 and 17.09.2012. Further, the matter may also require consideration in the light of the judgment of Hon'ble Apex Court in ***State of Punjab v. Jagjit Singh***, if attracted to the writ petitioner's case.

21. The Writ Appeal is partly allowed in the aforesaid terms. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand dismissed.

Sd/- P.VENKAT RAMANA
JOINT REGISTRAR

//TRUE COPY//

for SECTION OFFICER

To,

1. The Registrar (Judicial), High Court of Andhra Pradesh.
2. The Section Officer, Writ (Service Wing), High Court of Andhra Pradesh.
3. One CC to Sri M.Karibasaiah, Advocate [OPUC]
4. One CC to Smt A.V.S.Laxmi, Advocate [OPUC]
5. Two CD Copies

RAM

Bhargava

HIGH COURT

DATED:18/10/2023

**ORDER
IA.No.1 of 2019
IN
WA.No.133 of 2019**



**PARTLY ALLOWING THE WRIT APPEAL
WITHOUT COSTS**

7-Copies
PBK
28/11/23