

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE Mr. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE
&

HON'BLE Mr. JUSTICE C. PRAVEEN KUMAR

WRIT APPEAL No.367 of 2020

(Through Video Conferencing)

Acharya N.G. Ranga Agricultural University,
Lam, Tadikonda Mandal, Guntur District,
Rep. by its Registrar

... Appellant

Versus

D. Srinivasulu Reddy, S/o. Lakshma Reddy,
Aged about 50 years, Occ: Employee in
Agricultural College, Bapatla, 23rd Ward,
Munnamvaripalem, Bapatla, Guntur District,
and others

... Respondents

Counsel for the appellant : Mr. Kasa Jagan Mohan
Reddy, Spl. G.P., for Ms. N.
Anula

Counsel for respondent Nos.1 to 21 : Mr. M. Pitchaiah
Counsel for respondent No.22 : G.P., for Agriculture
Counsel for respondent No.23 : G.P., for Finance & Planning
Counsel for respondent No.24 : -----

JUDGMENT (ORAL)

Dt: 10.02.2021

(C. PRAVEEN KUMAR, J)

This Writ Appeal, under Clause 15 of the Letters Patent, is preferred by the 3rd respondent in W.P.No.3968 of 2020, challenging the order dated 10.03.2020 passed therein by the learned single Judge, mainly on the ground that the said order came to be passed at the admission stage, on the very first day of hearing, and without giving any opportunity to the appellant herein to file counter-affidavit.

2. In order to deal with the issue that arises for consideration in this appeal, it would be appropriate to refer to the contents of the writ affidavit and the relief sought therein. The said Writ Petition was filed seeking issuance of a Mandamus to declare the action of the respondents, in not regularizing the services of the writ petitioners, as illegal and arbitrary and consequently to direct the respondents to regularize their services on completion of one year of service, with arrears of salary and interest @ 12% per annum. It is averred in the Writ Petition that writ petitioners joined as Piece Meal Workers on 16.12.1994 at Agricultural College, Bapatla and have been working as such, continuously, without any interruption and to the satisfaction of the officers. It is further averred that writ petitioners were discharging duties of Class-IV employees employed in Government service. The contents of the affidavit show that the writ petitioners were employed in the hostels and they were cooking, serving food to students and maintaining the hostel rooms etc. Claiming that they have put in 10 to 25 years of service in the hostels of the Agricultural College, Bapatla, they filed the Writ Petition seeking regularization of their services.

3. By an order dated 10.03.2020, the Writ Petition was disposed of at the stage of admission on the first day of hearing, directing the respondents therein to regularize the services of the writ petitioners forthwith, subject to their possessing other requisite qualifications. It is that order, which is under challenge in the present Writ Appeal.

4. We have heard Mr. Kasa Jagan Mohan Reddy, learned Special Government Pleader, representing Ms. N. Anula - learned Standing Counsel for the appellant, Mr. M. Pitchaiah, learned counsel for respondent Nos.1 to 21, learned Government Pleader for Agriculture for respondent No.22, learned Government Pleader for Finance & Planning for respondent No.23 and perused the material on record.

5. Mr. Kasa Jagan Mohan Reddy, learned Special Government Pleader for the appellant, mainly submits that the order impugned in this appeal came to be passed without giving any opportunity to the appellant to contest the same. In other words, his argument is that, at the stage of admission, and on the very first day of hearing, order impugned came to be passed directing the respondents to regularize the services of the respondents-writ petitioners.

6. On the other hand, Mr. Pitchaiah, learned counsel appearing for the respondents-writ petitioners, would submit that, since no request was made by any of the respondents seeking time to file counter-affidavit, order impugned came to be passed by the learned single Judge basing on the judgments relied upon. He would submit that, the Court would have granted time, had the counsel for the respondents therein sought time for filing counter-affidavit. He further submits that the argument of the learned Government Pleader appearing for the appellant herein, that no opportunity of hearing was afforded to the respondents in the Writ Petition and that no effective hearing had taken place, may not be

correct and their appearances were recorded in the order. He further pleads that if the order of the learned single Judge is being set aside now, directions may be issued to pay salaries to the respondents/writ petitioners as per the revised pay scales.

7. As seen from the material placed before this Court, i.e., the case details chart of the A.P. High Court, would reveal that the Writ Petition was filed on 05.02.2020, registered on 17.02.2020, listed on 10.0.3020 and disposed of on the very same day, i.e., on the first day of hearing. In fact, the issue of Writ Petition being disposed of on the first day of its listing is not seriously disputed even by the learned counsel for the respondents-writ petitioners. But, as stated earlier, his argument is that, since the counsel for the respondents did not seek time for filing counter-affidavit, the order impugned came to be passed. But a perusal of the order impugned, does not indicate any concession being made by any of the counsel for the respondents for disposal of the Writ Petition. Further, the impugned order does not also record the submissions made by the counsel for the respondents. An opportunity ought to have been given to the respondents in the Writ Petition, to file counter-affidavit, bringing to the notice of the Court as to how services of the respondents-writ petitioners cannot be regularized and, thereafter, Court could have passed appropriate orders, more so when no concession is made by the respondents. Merely because it has been mentioned that counsel for the petitioners as well as the counsel for the respondents were heard, in our view, may not amount to effective hearing, when the order impugned

does not indicate the submissions made by the counsel for the respondents.

8. Though it is now urged by learned counsel for the respondents-writ petitioners that directions may be issued to pay revised pay scales to the respondents-writ petitioners, but, such a plea was never raised in the Writ petition. That being so, the question of issuing such directions, would not arise.

9. In that view of the matter, without going into the merits of the case, the order under challenge is set aside and the matter is remanded back to the learned single Judge. Meanwhile, the appellant herein/respondents in the Writ Petition may file counter-affidavit. It is needless to observe that it is open to the respondents-writ petitioners to make a request before the learned single Judge for taking up the matter. Before parting with the case, it is made clear that, insofar as the plea of the respondents-writ petitioners regarding payment of revised pay scales is concerned, it would always be open to the respondents-writ petitioners to raise such plea before the learned single Judge, if they are otherwise entitled to.

10. Subject to the above, the Writ Appeal stands disposed of. No order as to costs. Pending miscellaneous applications, if any, shall also stand disposed of.

ARUP KUMAR GOSWAMI, CJ

C. PRAVEEN KUMAR, J

MRR