

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

WEDNESDAY, THE SIXTH DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY FOUR



PRESENT

THE HONOURABLE SRI JUSTICE G.NARENDAR

AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT APPEAL NO: 905 OF 2023

Writ Appeal under clause 15 of the Letters Patent against the order dated 07.08.2023 in WP.No.17982/2023 on the file of the High Court.

**Between:**

Madanapalle Municipality, Madanapalle, Chittoor District, now  
Annamayya District. Rep. by its Commissioner.

**...Appellant**

**AND**

1. K Ramana, S/o. Subbanna, Aged about 63 years, Occ Public Health Worker, Retired while working at O/o. Commissioner of Madanapalli Municipality, R/o. 4-120-A, 2nd Floor, Siva Nagar, Madanapalle, Annamayya District, Formerly Chittoor District.
2. The State of Andhra Pradesh, Represented by its Spl. Chief/ Principal Secretary to Government, MA and UD Department, Secretariat, Velagapudi, Amaravathi, Guntur District.
3. The Commissioner and Director of MA and UD Department, AP, Vijayawada, Krishna District.
4. The District Audit Officer, State Audit, Chittoor District.
5. The Commissioner of Madanapalle Municipality, Madanapalle, Chittoor District.

(R5 is Not necessary party)

...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 stay the order of the learned Judge passed in WP.no.17982/2023 dated 07.08.2023, pending disposal of the writ appeal.

**Counsel for the Appellant: SRI. P C REDDY (SC FOR SERVICE, MUNICIPALITIES)**

**Counsel for the Respondent No.1: SRI HARINATH REDDY SOMAGUTTA**

**Counsel for the Respondent Nos. 2 and 3: GP FOR SERVICES IV**

**Counsel for the Respondent No. 4: GP FOR SERVICES I**

**The Court made the following order:**

APHC010457422023



IN THE HIGH COURT OF ANDHRA  
PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)

[3507]

WEDNESDAY, THE SIXTH DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE G.NARENDAR

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT APPEAL NO: 905/2023

Between:

Madanapalle Municipality

...APPELLANT

AND

K Ramana and Others

...RESPONDENT(S)

Counsel for the Appellant:

1. P C REDDY (SC SERVICE MUNICIPALITIES RR,  
NELLORE)

Counsel for the Respondent(S):

1. HARINATH REDDY SOMAGUTTA
2. GP FOR SERVICES IV
3. GP FOR SERVICES I




**The Court made the following:**(per Hon'ble Sri Justice T.C.D.Sekhar)

The writ petition *vide* W.P.No.17982 of 2023 was filed by the 1<sup>st</sup> respondent in the instant appeal, seeking to declare the action of the respondents therein in not granting pensionary benefits to the petitioner by treating the NMR services as having completed five years prior to his regularization, and by counting the services for the purpose of computing qualifying services for pensionary benefits and also contrary to the orders passed in W.P.No.36199 of 2017, dated 22.09.2021.

2. The facts of the case are as under.

3. The 1<sup>st</sup> respondent/writ petitioner was initially appointed as NMR against the post on Public Health Worker in the appellant municipality on 28.10.1986. While so, as per the orders of the tribunal and as per the terms and conditions of G.O.Ms.No.212 dated 22.04.1994, the services of the 1<sup>st</sup> respondent/writ petitioner in the said post was regularized by virtue of G.O.Rt.No.138 dated 03.02.2011 and accordingly the Commissioner, Madanapalle Municipality also issued consequential orders on 07.03.2011. It was the further case of the 1<sup>st</sup> respondent/writ petitioner that he rendered services to the utmost satisfaction of his higher authorities and was retired from

service on 30.06.2021 after attaining the age of superannuation. He made several representations to the respondents to release his service regular pension but there was no response. It was the further case of the 1<sup>st</sup> respondent/writ petitioner that, similarly situated person like that of the 1<sup>st</sup> respondent, whose services were also regularized as per G.O.Rt.No.138 dated 03.02.201, filed O.A.No.2575 of 2016 before the tribunal challenging the action in rejecting his case for grant of pension by counting temporary service rendered as NMR. The said OA came to be dismissed by the tribunal by order dated 31.08.2016. Aggrieved by the same the said individual filed a writ petition *vide* W.P.No.36199 of 2017 before this Court and the same was allowed by order dated 22.09.2021, whereby and whereunder this Court set aside the order dated 31.08.2016 passed in O.A.No.2575 of 2016 by directing the respondents to reprocess the pension proposals of the applicant/petitioner therein for the purpose of sanctioning pensionary benefits by treating his qualifying service from 1992 and such exercise shall be undertaken within three months from the date of communication of the order.



4. It was further contended by the 1<sup>st</sup> respondent/writ petitioner that when the said orders passed in the above writ petition i.e., in W.P.No.36199 of 2017 was not complied, the petitioner therein filed a contempt case *vide* CC.No.1018 of 2022 and eventually the respondents have complied the orders of this Court made in W.P.No.36199 of 2017 subject to the result of filing SLP before the Hon'ble Apex Court. It is needless to mention that the respondents therein preferred an appeal *vide* SLP No.12902 of 2023 and the same was dismissed on 28.04.2023 on the ground of delay. The 1<sup>st</sup> respondent/writ petitioner further contends that he is a similarly situated person and in view of the same, he preferred a writ petition under challenge seeking to grant similar relief to him by sanctioning the regular pension by counting the services rendered by him prior to regularization as NMR. As per AP Revised Pension Rules 1980 particularly Rules 13 and 14, the nature of service which would be counted as qualifying service for the purpose of grant of pension under the said rules.

5. The 3<sup>rd</sup> respondent filed counter affidavit by admitting that the petitioner was engaged as NMR on 28.10.1996 and subsequently by virtue of G.O.Rt.No.138, dated 03.02.2011 the



services of 1<sup>st</sup> respondent/writ petitioner was regularized. It was further contended in the counter that in the said G.O it was categorically mentioned that the orders of regularization are applicable to the persons who have fulfilled the conditions laid by in G.O.Ms.No.212, dated 22.04.1994 from prospective date i.e., from the date of issuance of orders by the competent appointing authority subject to the condition that the said vacancies are clear, regular and continued from time to time till date and no senior eligible persons are overlooked. It was further stated in the counter affidavit that the writ petitioner after attaining the age of superannuation retired from service on 30.06.2021 and in pursuance of introduction of Contributory Pension Scheme (CPS) which is a New Pension Scheme (NPS), all the employees fall under the said system are given permanent retirement account number by the Government. Likewise the 1<sup>st</sup> respondent/writ petitioner was also given Permanent Retirement Account Number *vide* 110062379505 with effect from 07.03.2011. Under CPS/NPS, the contribution is deducted regularly from his salary and gratuity was also paid to the 1<sup>st</sup> respondent/writ petitioner to the tune of Rs.4,13,966/- by way of proceedings *vide* SA.No.A1/42/2022, dated 10.07.2022.

6. It was the further contention of the appellant/respondent that the AP Revised Pension Rules 13 and 14 of 1980 as claimed by the writ petitioner are not applicable to him as the services of the writ petitioner as NMR are regularized as per the conditions stipulated in G.O.Ms.No.212, dated 22.04.1994 and he was appointed as Public Health Worker with effect from 07.03.2011 by which date Contributory Pension Scheme came into force from 01.09.2004 and therefore the request of the petitioner cannot be considered.

7. After hearing the matter the learned Single Judge taken note of the fact that in similar circumstances this Court in W.P.No.36199 of 2017 directed the authorities concerned to reprocess the pension proposals of the petitioner therein for the purpose of sanctioning pension and pensionary benefits by treating his qualifying service from 1992 when he had completed five years of service as NMR and by relying on the said judgment the writ petition under challenge was disposed of by directing the respondents to reprocess the pensionary proposals of the 1<sup>st</sup> respondent/writ petitioner for the purpose of sanctioning pension and pensionary benefits by treating his qualifying service from 1992 when he had completed five years of continuous service as



NMR on par with the employee in W.P.No.36199 of 2017 and the said exercise shall be undertaken within three months from the date of communication of the order.

8. The present appeal is filed by the Madanapalli Municipality on the grounds that though the order dated 22.09.2021 in W.P.No.36199 of 2017 was implemented by the Government in G.O.Rt.No.129 dated 23.02.2023, whereunder imposed a specific and categorical condition 6(iii) stating that the orders issued shall not be quoted as a precedence in other similar/future cases. Knowing fully well that the said order is not applicable to the case on hand, yet the petitioner approached this Hon'ble Court by filing the writ petition which is under challenge.

9. It was further contended by the appellant that the services of the writ petitioner was regularized *vide* G.O.Rt.No.138 dated 03.02.2011 and therefore he is not entitled to claim pensionary benefits from the date of his initial appointment as NMR. Prior to the regularization of services of the writ petitioner the salary was paid from the Municipal General Fund and only after regularization, the salary is paid from the Consolidated Fund. He would further submit that the Rules 13 and 14 of AP Revised Pension Rules 1980 are not applicable to the writ petition and

prays this Court that the order of the learned Single Judge dated 07.08.2023 made in W.P.No.17982 of 2023 be set aside.

10. Heard the learned counsel for the appellant and the counsel for the respondents.

11. On perusal of the facts of the case on hand, it is clear that though the writ petitioner was appointed as NMR in Madanapalli Municipality on 28.10.1986, his services were regularized by virtue of G.O.Rt.No.138, dated 03.02.2011 and in furtherance thereto, the Commissioner, Madanapalli Municipality issued consequential orders in R.C.No.707/C1/1991, dated 07.03.2011. Since then, the writ petitioner worked in the said Municipality and was retired from service on 30.06.2021 after attaining the age of superannuation. It is needless to mention that the service of the writ petitioner was regularized in the year 2011 and as on that date the Contributory Pension Scheme was enforced and the petitioner was also given Permanent Account Number.110062379505 with effect from 07.03.2011. Having joined in Contributory Pension Scheme by the writ petitioner, he contributed regularly from his salary towards the said scheme from 07.03.2011. Apart from the same, Rules 13 & 14 of AP Revised Pension Rules, 1980 are also not applicable to the case

on hand. Be that as it may, the petitioner also retired from service on 30.06.2021 and thereafter approached this Hon'ble Court by filing the instant writ petition seeking a direction to the respondents/writ appellant for releasing regular pension to him by treating the services rendered by him as NMR. Though the petitioner is not entitled to receive the same, the learned Single Judge by virtue of impugned order directed the respondents to reprocess the pension proposals of the writ petitioner for the purpose of sanctioning pension and pensionary benefits by treating his qualifying services from the year 1992 when he had completed five years of continuous service as NMR. As already stated, the writ petitioner was retired from the service in the year 2021 and thereafter he has initiated the proceedings seeking to pay regular pension. To give a quietus to the litigation, this Court taking into consideration the services rendered by the writ petitioner/1<sup>st</sup> respondent, it is directed that the appellant municipality shall pay contributory pension calculated from 01.09.2004 onwards i.e., from the date of coming into force of the Contributory Pension Scheme.



12. Accordingly, the present writ appeal is partly allowed by modifying the order dated 07.08.2023 in W.P.No.17982 of 2023 as stated above.

There shall be no order as to costs.

As sequel thereto, miscellaneous petition, if any, pending shall stand closed. Interim orders, if any, shall stand vacated.

Sd/- E. KAMESWARA RAO  
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Spl. Chief/ Principal Secretary to Government, MA and UD Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Commissioner and Director of MA and UD Department, AP, Vijayawada, Krishna District.
3. The District Audit Officer, State Audit, Chittoor District.
4. The Commissioner of Madanapalle Municipality, Madanapalle, Chittoor Dis
5. One CC to Sri. P C Reddy (SC for service Municipalities) [OPUC]
6. One CC to Sri. Harinath Reddy Somagutta Advocate [OPUC]
7. Two CCs to GP for Services IV, High Court Of Andhra Pradesh. [OUT]
8. Two CCs to GP for Services I, High Court Of Andhra Pradesh. [OUT]
9. Three CD Copies

GSC

**HIGH COURT**

**DATED:06/11/2024**

**ORDER**

**WA.No.905 of 2023**



**PARTLY ALLOWING OF THE WP**

**WITHOUT COSTS**