

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**W.P. No. 42915 of 2017**

Between:

S. Mohan Reddy & 2 others

... Petitioners

And

State of Telangana, represented by its  
Principal Secretary to Government,  
School Education Department, Telangana  
Secretariat, Hyderabad – 500 022 & others

... Respondents

JUDGMENT PRONOUNCED ON: 05.06.2023

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be  
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to  
see the fair copy of the Judgment? : yes

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SUREPALLI NANDA, J

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 42915 of 2017****% 05.06.2023****Between:**

# S. Mohan Reddy &amp; 2 others

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Principal Secretary to Government,  
School Education Department, Telangana  
Secretariat, Hyderabad – 500 022 & others

... Respondents

&lt; Gist:

&gt; Head Note:

! Counsel for the Petitioner : Mr J.R.Manohar Rao

^ Counsel for Respondents : Government Pleader for  
Services – I.

? Cases Referred:

1. (2003) AIR SC 43
2. (2010) AIR 4 SCC 785

**HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 42915 OF 2017****ORDER:**

**Heard the learned counsel for the petitioner and the learned Government Pleader for Services I.**

2. This Writ Petition is filed praying, to issue Writ of Mandamus directing the respondents to implement the order of the A.P. Administrative Tribunal, Hyderabad dated 04.01.2013 in O.A. No. 303 of 2013 and further direct the respondents to re-fix the pay of the petitioners in the scale of Rs. 130-250/- and Rs.150-300/- as Untrained Graduate and as revised from time to time with all consequential benefits such as Payment of Salary, increments, arrears of pay and refund the amount already recovered from the petitioners by virtue of provisions of Act 14 of 1991, as per the judgment of the Hon'ble Supreme Court of India in 'P.Tulsidas Vs. Government of A.P.' reported in A.I.R. 2003 S.C 43 and set aside the impugned Proceedings Rc.No.63/347/A2/2013-17 dated 15.09.2017 issued by the District Educational Officer, Karimnagar.

**3. The case of the Petitioners, in brief, is as follows:**

a. The Petitioners were initially appointed as S.G.B. Teachers in Karimnagar District and later on, were promoted as School Assistants and have retired from service in May, 2004, 31.01.2001 and 31.12.2001 respectively.

b. Petitioners pay was fixed in the cadre of School Assistant at Rs. 150 – 300 and was revised from time to time. Act 14 of 1991 had been passed with a view to regulate the pay fixation of Untrained Graduate Teachers and Matriculate Teachers and also to initiate recovery proceedings against the teachers. The same had been challenged before the Tribunal vide OA.No.50430-50441/1991 and the action of the Government had been held correct by the tribunal. The decision of the Tribunal was challenged before the Hon'ble Supreme Court of India in Civil Appeal No. 2652-2654 of 1995 and batch, whereby the Hon'ble Supreme Court struck down the Section 2 and 3 (a) of the Act and had directed to refund the recovered amounts to the teachers.

c. The Petitioners herein also stand in the same footing, as the respondents herein have recovered the amounts from the

Petitioner under the same Act and despite repeated attempts have not refunded the amount and the Petitioners have approached the Tribunal vide O.A. No. 303 of 2013.

d. The Tribunal at the stage of Admission perused the material papers and disposed of the O.A. 303 of 2013 vide order dated 04.01.2013 by stating:

*"4. In the facts and circumstances of the case and as the subject matter of this O.A. is similar to O.A. Nos 2565 of 2003 and 3954 of 2003, this O.A. is also disposed of with similar directions as granted in these O.A's".*

e. On the applications of the Petitioner, the District Educational Officer had sent a letter vide no. 63/A1/2013 dated 03.04.2013 to the Commissioner and Director of School Education, A.P. Hyderabad submitting detailed reports of the individual case for Examination and to take further action.

f. Petitioners have approached the Pension Lok Adalat Bench and have filed petitions for fixing the pay at Rs. 130-250 and the Director of School Education, Telangana, Hyderabad vide letter dated 22.05.2017 requested the Legal Services Authority, Hyderabad to grant 4 weeks' time to pass

orders. Pursuantly, the District Educational Officer, Karimnagar issued proceedings Rc.No.63/347/A2/2013-17 dated 15.09.2017 and rejected the proposals of the retired teachers as they are not eligible for awarding pay scale of Rs.130–250.

g. Prior to issuance of the proceedings dated 15.09.2017, the District Educational Officer, Karimnagar had called for particulars of the Petitioners from the Head Institute as to whether they have taught classes of 8<sup>th</sup>,9<sup>th</sup>& 10<sup>th</sup> and it is unknown whether the information to the District Educational Officer, Karimnagar has been furnished or not, even the proceedings dated 15.09.2017 have not spoken about the same.

h. The District Educational Officer, Karimnagar without assigning any reason whatsoever, had stated that the petitioners are not eligible and this is bad in law, arbitrary and it was informed that, any person eligible, to resubmit the proposals along with point-wise justification report.

i. The Order of the Tribunal dated 01.03.2005 filed by Similarly Situated Person in O.A. No. 2565 of 2003 directing

the department to consider the claim of the applicants therein is relied upon by the petitioners.

j. At the time of filing of O.A., the A.P. State was not bifurcated and that the Tribunal was abolished and hence, the Writ Petition is filed before this Court.

**4. The case of the Respondents, in brief, as per the counter filed is as follows:**

a. The Petitioners were appointed initially in the scale of Pay of Rs.80-150 and they were promoted as School Assistants and retired from service.

b. Due to paucity of Secondary Grade Teachers in Science and Mathematics, the Government issued G.O.Ms.No.257 dated 10.02.1967 wherein the untrained Graduate Teachers in Science and Mathematics were appointed under the control of Government/Zilla Parishad/Aided management schools in Telangana with a minimum basic pay of Rs.130/- in the scale of Rs.130-250 for a period of 2 years.

c. Vide G.O.Ms.No.2069, Edn. dated 09.10.1967, Government had issued orders directing the untrained Intermediate and Matriculates, appointed as Teachers as eligible to draw the minimum of time scale applicable to the

post and that they are not eligible to draw any further increments till they have acquired qualification prescribed to the post.

d. The Order of the Tribunal dated 15.09.1977, directing even the untrained graduates, appointed in Secondary Grade Post, should be allowed the minimum of Rs.130/- in the scale of pay of Rs.130-250 but the view of the government is contrary as per G.O.Ms.No,257, Edn, dated 10.02.1967.

e. The Scheme of Advancement in service accorded vide G.O.Ms.No.164, Finance dated 01.06.1982, is by way of creation of Special Grade Post to teachers who have completed 10 years of service in a particular scale of pay and special temporary promotion post, Special Adhoc promotion post who have completed 15 years of service in particular scale and the untrained teachers working in secondary Grade post, who are not eligible for continuing of service had also drawn the special promotion scales.

f. By its order in RP.No 1799 of 1985, the Andhra Pradesh Administrative Tribunal had directed the respondents to consider the claim of the petitioners and to confirm the benefit of Automatic Advancement Scheme by continuing



their service as untrained teacher, which are contrary to the orders issued in G.O.Ms.No.164, dated 01.06.1982 though the same had been annulled by the Government.

g. The Supreme Court in Special Leave Petition (SLP) 2967 of 1977 has declared that clause 5 of Article 371-D as void. The Supreme Court vide Special Leave Petition (SLP) 13779-85 of 1987 filed by the Government against the order of the Tribunal/APAT was dismissed by the Supreme Court as the same was barred by limitation.

h. Then the Government had issued Act 14 of 1991 dated 23.04.1991 to restrict the benefit of Automatic Advancement Scheme in the State of Andhra Pradesh.

i. The Government after considering the orders of the Tribunal/High Court issued instructions vide MemoNo34/Ser.III-1/1992-27, dated 24.11.2003, wherein the Commissioner & Director of School Education were directed to recover the amount drawn towards the Automatic Advancement Scheme by Secondary Grade Teacher. The supernumerary Post school assistants will be regarded as secondary grade teachers with effect from 23.04.1991 and the excess amount, If any paid to the secondary grade

teacher for pulling supernumerary post will be recovered from them.

j. Present petitioners have not worked as untrained teacher holding the supernumerary post of school assistants and have not handled the classes of 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> in secondary school. As per the service particulars the Petitioners are not eligible for counting of service in supernumerary post of school assistant for the purpose of Automatic Advancement Scheme.

k. The present petitioners have also approached the Lok Adalat, Telangana State Legal Services Authority in this regard and the district educational officer, Karimnagar vide his proceedings, dated 15.09.2017 issued speaking order, rejecting the request of the petitioners after due examination of the provisions of the act vide memo dated 24.11.2003 and as per the orders of the Tribunal OANo. 303 of 2013 dated 16.12.2018 rejecting the claim of the petitioners as they were not eligible as per government memo dated 24.11.2003 and the same was communicated to the petitioners and, they said, Writ Petition is filed after a lapse of

10 years after their retirement, hence the petitioners have no ground and the Writ Petition is devoid of merits.

**Perused the Record :**

**5. The order dated 04.01.2013 passed in O.A.No.303 of 2013 reads as under :**

“The applicants have filed this O.A., seeking to direct the respondents to re-fix their pay in the scale of Rs.130-250/- and Rs.150-300/- as untrained graduate and as revised from time to time with all consequential benefits and to refund the amounts already recovered from the applicants by virtue of provisions of Act 14 of 1991, as per the judgment of the Hon’ble Supreme Court of India in Civil Appeal Nos.2652-2654/95 with C.A.No.2655, 4680, 5318-5319, 5208 of 1995 and batch dated 24.10.2002, in P.Tulsidas v Govt. of A.P. reported in AIR 2003 SC 43.

2. The learned counsel for the applicants submitted that the subject matter of this O.A. is similar to O.S.Nos.2565 of 2003 and 3954 of 2003 which was disposed of by the Tribunal by an order dated 01.03.2005 and seeks similar orders in this O.A.

3. Heard both sides and perused the material papers on record.

4. In the facts and circumstances of the case and as the subject matter of this O.A. is similar to O.A.Nos.2565 of 2003 and 3954 of 2003, this O.A. is

also disposed of with similar directions as granted in these O.As."

**6. The relevant portion of the Memo dated 24.11.2003 vide Memo No.34/Ser.III.1/92-27, reads as under :**

"11. In view of the above judgment of Supreme Court of India, the untrained graduate teachers appointed in School Assistant posts are entitled to a minimum of Rs. 130/- in the pay scale of Rs. 130-250 as per the orders issued by the Govt. in G.O.Ms.No. 257 Education Department dated 10.2.1967 upto 22.4.1991, and thereafter w.e.f. 23.4.1991 their pay will be regulated as per the orders in force i.e. Rs. 100/- in the pay scale of Rs. 80-150. Likewise, the Secondary Grade Teachers who are holding the supernumerary posts of School Assistant in the posts created by Govt., in the memo No. 1630,1630/H1-1/81-3 dated 12.1.1982 and 20.2.1984 will be regarded as holding the supernumerary posts of School Assistants up to 22.4.1991 and they will be regarded as holding the post of Secondary Grade Teachers in the scale of Rs. 80-150 w.e.f. 23.4.1991 and the excess amount paid to the Secondary Grade Teachers holding supernumerary posts of School Assistants will be recovered w.e.f. 23.4.1991. The Secondary Grade Teachers who are holding the supernumerary posts of School Assistants created by the Govt., are not entitled to count their service in the

supernumerary post of School Assistant for the purpose of automatic advancement scheme, and if any, Secondary Grade Teacher is given the benefit of automatic advancement scheme by reckoning the service hold by him in the supernumerary post of School Assistant, it will be deemed to have been cancelled from the date of extension of such benefit to him and any amount paid to him by grant of automatic advancement scheme will be recovered from them.

12. The Commissioner & Director of School Education is therefore directed to recover the amount drawn towards automatic advancement scheme by the Secondary Grade Teachers for holding supernumerary posts of B.Ed scales from the concerned. The pay of the untrained Graduates will be regularized as per the orders in force with effect from 23.4.1991. The Supernumerary posts of School Assistants will be regarded as Secondary Grade Teachers with effect from 23.4.1991 and the excess amount if any paid to the Secondary Grade Teachers for holding supernumerary posts, B.Ed scales will be recovered from them. In view of the above, the instructions issued in Govt. memo 4th cited and other instructions issued from time to time on the subject are deemed to have been modified.

13. The Commissioner & Director of School Education is requested to take action accordingly in the matter and issue instructions to all the concerned immediately.

14. This memo issues with the concurrence of Law/Fin. & Plg. Deptt vide their C.No. 3958/A/03 dated 2.7.2003 U.O. No. 24194-A/342-A, ESE/03, dated 1.10.2003 respectively.

**7. The order impugned dt. 15.09.2017 of the District Educational Officer, Karimnagar, vide Rc.No.63/347/A2 /2013-17 reads as under :**

“The following retired teachers proceeded to Hon'ble (Lok Adalat) Telangana State Legal Services Authority Nyaya Seva Sadan Hyderabad and filed petitions before pension Lok Adalat Bench for award of scale of Rs. 130-250 and sanction benefits for pension.

1.Sri. D. Anjaiah - 10.08.1968- SA, ZPHS, Karimnagar, MP Karimnagar Case No. 152/TSLSA/2016.

2. Sri P. Rajesham 10-7.1968- ZPHS Rudravaram, MP Vemulawada, District Rajanna Sircilla Case No. 153/TSLSA/2016.

3. Sri K.Rajamouli - 29.09.1965 ZPHS Chintakunta, MP Karimnagar - Case No. 154/TSLSA/2016.

4. Sri. B.Ramachandram -05.02.1966 ZPHS Narsingapur, MP Boinpally, District Rajanna Sircilla- Case No. 155/TSLSA/2016.

5. Sri. A. Chandrajah-11.09.1965-ZPHS Husnabad (Boys) District Siddipet-Case No. 156/TSLSA/2016.

6. Sri S. Mohan Reddy -12.03.1969-ZPHS  
Chigurumamidi, Karimnagar District Case No.  
157/TSLSA/2016.

7. Sri V. Veerabrahma Chary 30.09.1966 GHS  
Karkhanagadda, Karimnagar- Case No.  
158/TSLSA/2016.

In view of the above, the Government have issued an Act 14/91 dt. 23.04.1991 and certain guidelines in Govt. Memo No. 34/Ser.III-1/92-27 dated 24.11.2003 for implementation of said benefits to the untrained graduate teachers.

In this circumstances, the proposals of the above retired teachers considered and examined with terms and guidelines issued in above act and Govt. Memo shown under reference 3rd and 4th cited above and rejected as they are not eligible for award of scale of Rs. 130-250 and sanction of benefits to pension as per the guidelines.

**Hence, the original service books of the above individual are herewith returned to the head of the institutions concerned and also informed if any person eligible, resubmit the proposals along with point wise justification report as per above act and Govt. Memo.**

The Headmasters concerned are requested to take action accordingly.

Kindly acknowledge the same.

**8. Counter affidavit filed on behalf of the Respondents, in particular paras 10 and 11 reads as under:**

10. It is submitted that the present petitioners were not worked as untrained teacher holding the supernumerary post of School Assistants and not handled the classes of VIII, IX and X in the Secondary Schools as per the service particulars and not eligible for counting of service in the supernumerary post of School Assistant for the purpose of Automatic Advancement Scheme.

11. It is submitted that the present petitioners also approached the Hon'ble Lok-Adalath, Telangana State Legal Services Authority in this regard. The District Educational Officer, Karimnagar vide his Proceedings dated. 15.09.2017 issued a speaking order rejecting the request of the petitioners after due examination interms of the provisions of the Act and guidelines of Government issued in Memo.No.34/Ser III-1/92-27, dated 24.11.2003 and as per the orders of the Hon'ble Andhra Pradesh Administrative Tribunal in OA No.335/2013 speaking orders are again passed on 16.02.2018 rejecting the claim of the petitioners as they are not eligible as per Govt. Memo No. 34/Ser.III-1/92-27. dated 24.11.2003 the same was communicated to the petitioner herein. Thus the petitioners have no ground to consider their request.



**9. DISCUSSION AND CONCLUSION :**

i. A bare perusal of the order impugned indicates the same is passed without issuing notice to the Petitioners herein, unilaterally, mechanically, irrationally, in clear violation of principles of natural justice without assigning any reasons, without considering Petitioners request for award of scale of Rs.130-250 and sanction of benefits for pension, without considering the spirit of the orders of the Court dt. 04.01.2013 passed in O.A.No.303/2013, and also the spirit of the orders of the judgment of the Hon'ble Supreme Court of India in C.A.Nos. 2652-2654/1995 with C.A.No.2655, 4680, 5318, 5319 and 5208/1995 and batch, dt. 24.10.2002 in P. Tulsi Das vs. Government of Andhra Pradesh reported in AIR 2003 SC 43.

ii. A bare perusal of the material documents filed by the Petitioner in support of the present Writ Petition and Letter No.63/A1/2013, dt. 03.04.2013 of the District Educational Officer, Karimnagar, addressed to the Commissioner and Director of School Education,

Andhra Pradesh, Hyderabad, clearly indicates that the District Educational Officer, Karimnagar submitted, personal, case wise detailed reports along with original Service Registers of the Petitioners herein and attested true copies of qualification certificates for examination by the Commissioner and Director of School Education, A.P., Hyderabad. Strangely the order impugned does not even refer to the said proposals submitted to the Commissioner and Director of School Education, A.P., Hyderabad by the District Educational Officer, Karimnagar in respect of the Petitioners herein in either of the five references referred to in the order impugned in Rc.No.63/347/A2/2013-17, dt. 15.09.2017, and therefore this Court opines that admittedly as borne on record the proposals submitted by the District Educational Officer, Karimnagar vide Letter No.63/A1/2013, dated 03.04.2013 and all the relevant attested true copies of qualification certificates in respect of the Petitioners enclosed along with the proposals submitted by the then District Educational Officer, Karimnagar one Mr.K. Lingaiah, to the

Commissioner and Director of School Education, Andhra Pradesh, Hyderabad, which had also been attested by the Assistant Director, DEO, Karimnagar on 02.04.2013, had not been considered at all nor examined by the District Educational Officer, Karimnagar prior to passing of the impugned order dt.15.09.2017 vide Rc.No.63/347/A2/2013-17.

iii. A bare perusal of the six page counter filed on behalf of the Respondents curiously also does not refer to the said proposals dt. 03.04.2013 of the District Educational Officer, Karimnagar vide Letter No.63/A1/2013 submitted to the Commissioner and Director School Education, A.P., Hyderabad, and strangely certain specific averments are made against the Petitioners at para 10 of the counter affidavit holding the Petitioners as ineligible. The order impugned dt. 15.09.2017 is not a speaking order as contended at para 11 of the counter affidavit and the order impugned infact is an order passed mechanically without application of mind, without considering the proposals dt. 03.04.2013 of the District Educational

Officer, Karimnagar vide Letter No.63/A1/2013 submitted to the Commissioner and Director of School Education, A.P., Hyderabad.

iv. A bare perusal of the order impugned dt. 15.09.2017 of the 3<sup>rd</sup> Respondent herein vide Rc.No.63/347/A2/2013-17, also indicates in its underlined portion that if any person is eligible the proposals can be resubmitted with point wise justification. This Court concludes that it is evident and apparent on the face of record that the request of the Petitioners for award of scale of Rs.130-250 and sanction of benefits for pension duly considering the orders dt. 13.02.2013 in O.A.No.935/2013 and duly considering the Order of the Apex Court in C.A.No.2652-2654/1995 with C.A.No.2655, 4680, 5318, 5319 and 5208 of 1995 and batch dt. 24.10.2022 in P. Tulsi Das Vs. Government of Andhra Pradesh reported in AIR 2003 SC 43 had not been examined and no exercise in the said direction had been undertaken at all by the Respondents and mechanically the request of the Petitioners had been rejected without even

examining the proposals submitted by the District Educational Officer, Karimnagar vide Letter No.63/A1/2013, dt. 03.04.2013, duly enclosing attested true copies of qualification certificates in respect of the Petitioners herein.

v. The order impugned dt. 15.09.2017 of the 3<sup>rd</sup> Respondent herein vide Rc.No.63/347/A2/2013-17 is an unreasoned cryptic order passed by the 3<sup>rd</sup> Respondent and the 3<sup>rd</sup> Respondent except stating that the Petitioners are not eligible for award of scale of Rs.130-250 and sanction of benefits to pension as per the guidelines does not assign a single reason for rejecting Petitioners request nor the Petitioners had been put on notice prior to passing the said impugned orders denying reasonable opportunity to the Petitioners to putforth their claim with supporting evidences which is infact in clear violation of principles of natural justice.

vi. **In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota v. Shukla**

**and Brothers, (2010) 4 SCC 785, the Hon'ble Supreme Court has held as under :**

**"....while exercising the power of judicial review on administrative action and more particularly the judgment of Courts in appeal before the higher Court, providing of reasons can never be dispensed with. The Doctrine of Audi Alteram Partem has three basic essentials. Firstly a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the authority concerned to provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.**

**A litigant who approaches the Court with any grievance in accordance with law is entitled to know the reasons for grant or his rejection of his prayer. Reasons are the soul of orders. Non recording of reasons could lead to dual infirmities, firstly, it may cause prejudice to affected party and secondly, more particularly hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and in fact, with a greater degree of precision to judicial pronouncements".**

**10. This Court opines that the order impugned dated 15.09.2017 of the 3<sup>rd</sup> Respondent herein vide Rc.No.63/347/A2/2013-17 in so far as rejecting the request of the Petitioners for award of scale of Rs.130-250 and sanction of benefits for pension unilaterally, irrationally vide an unreasoned order had been passed mechanically without application of mind and therefore the same need to be set aside and accordingly is set aside and writ petition is allowed. The Respondents are directed to reconsider the cases of the Petitioners in accordance to law and implement the order of the A.P. Administrative Tribunal, Hyderabad, dt. 04.01.2013 passed in O.A.No.303/2013 in its true spirit. The respondents are therefore directed to reconsider the cases of the petitioners for re-fixation of the pay of the Petitioners in the scale of Rs.130-250/150-300 as untrained graduates with all consequential benefits duly considering the proposals submitted by the District Educational Officer, Karimnagar to the Commissioner and Director of School Education, A.P., Hyderabad, vide Letter**

**No.63/A1/2013, dt. 03.04.2013 as per the judgment of the Hon'ble Supreme Court of India in C.A.Nos.2652-2654/1995 in C.A.No. 2655, 4680, 5318, 5319, 5308 of 1995 and batch dated 24.10.2002 in P.Tulsi Das Vs. Government of Andhra Pradesh, reported in AIR 2003 SC 43 in accordance with law, within a period of 3 weeks from the date of receipt of the copy of the order duly putting the Petitioners on notice in conformity with the principles of natural justice and pass appropriate reasoned orders duly communicating the same to the Petitioners herein.**

Miscellaneous petitions, if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

Date: 05.06.2023

Note: L.R. copy to be marked  
b/o kvrm