

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO.22462 OF 2018

Date: 11.07.2018

Between:

Ch.Shankar, s/o. Ashaiah, Aged about 57 years,
Occu: Junior Assistant, Bellampally Municipality,
Bellampally, Mancherial District.

.... Petitioner

And

The Regional Director-cum-Appellate Commissioner of
Municipal Administration, Warangal Region, Warangal
District and others.

.... Respondents



The Court made the following:

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WRIT PETITION NO.22462 OF 2018

ORDER:

Petitioner was initially appointed as NMR in Bellampally Gram Panchayat on 01.06.1984. Petitioner along with other NMRs continued to work in Bellampally Municipality after up gradation from Gram Panchayat to Grade-II Municipality vide G.O.Ms.No.48 dated 21.01.1987. By proceedings dated 08.01.1990 regular pay scale was fixed for the petitioner and others, after which he was absorbed as Bill Collector vide G.O.Ms.No.1320 dated 15.12.1991. Petitioner belongs to the SC community and has passed 10th class. He was promoted as Junior Assistant by 1st Respondent on 02.07.2009. However, he was reverted back to the post of Bill Collector vide proceedings dated 28.03.2013 on the ground that he had not passed Intermediate Examination within three years. The same was challenged by the Petitioner in O.A.No.2827 of 2013 before Andhra Pradesh Administrative Tribunal (APAT). Tribunal granted interim stay of reversion by order, dated 23.04.2013. Petitioner also filed O.A.No.5408 of 2013 praying to grant promotion as Senior Assistant. Petitioner also completed his B.A. Degree from Open University in May 2013. The first respondent directed the third respondent to continue the petitioner as Junior Assistant by his letter dated 10.02.2006. In view of the abolition of A.P.Administrative Tribunal both the OA's filed by the Petitioner (challenging the reversion order and seeking direction to consider his case for promotion to the post of Senior Assistant) stood transferred to the High Court.

2. On 22.05.2018 petitioner made a representation to the 1st respondent requesting him to release increments due to him and also determine revised pay scales as the petitioner has only one year of service before superannuation. The same was forwarded by the 3rd respondent to the 1st respondent on 23.05.2018, but no action has been taken till date. Petitioner has therefore filed this Writ Petition to direct the 1st Respondent to consider his representation for release of annual grade increments and revised pay scales due to the petitioner.

3. Heard learned counsel for petitioner and learned Assistant Government Pleader for respondents.

4. According to learned counsel petitioner, petitioner has been working as Junior Assistant continuously without any blemish. Any employee, on completion of 12 months of service, is entitled to annual increment. Annual increment can be denied only by way of punishment, not otherwise. The denial of annual increments since the year 2010 amounts to arbitrary exercise of power, illegal and unconstitutional. He further submitted that there have been revision of pay scales but the revised scales are not applied causing undue hardship and suffering to the petitioner. He would therefore submit that direction be issued to release annual increments and to fix his pay in the revised scales of pay.

5. It is not in dispute that order of reversion from the post of Junior Assistant to Bill Collector dated 28.3.2013 was challenged in O.A.No.2827 of 2013 before APAT. By order dated 23.04.2013, the APAT stayed reversion. By virtue of stay of reversion, petitioner is continuing as Junior Assistant. While so, petitioner filed

O.A.No.5408 of 2013 praying to direct respondents to grant promotion as Senior Assistant. In the meantime, APAT was abolished. Consequently, O.A.No.2827 of 2013 and O.A.No.5408 of 2013 are transferred to this Court, renumbered as W.P.(Tr.) No.464 of 2017 and W.P.(Tr.)No.746 of 2017, respectively, and are pending consideration of this Court. Petitioner now seeks to release annual grade increments due from 01.08.2010 and to implement revised pay scales from time to time. According to learned counsel, petitioner made representation to grant these benefits. Alleging inaction, this Writ Petition is filed.

6. Petitioner is continuing as Junior Assistant in view of interim order granted by APAT. Whether petitioner was validly reverted and whether petitioner was illegally denied promotion during the pendency of W.P.(Tr.) No.464 of 2017 are matters for consideration in the pending writ petitions.

7. The claim made in this writ petition flows out of his grievance against reversion which is pending consideration in W.P.(Tr)No.464 of 2017.

8. Payment of annual increments varies from post to post. Similarly, fixation of revised pay scales also depends on the post in which an employee is working. Thus, his entitlement to hold the post of Junior Assistant or the action of respondents in reverting him whether valid has to be decided before determining his annual increments and applying revised pay scales. Be it noted, as long as employee renders satisfactory service of 12 months, he is entitled to annual increment and whenever there is revision of scales of pay, the same should also be granted. However, the

status of petitioner is in nebulous condition and unless that is resolved, the issue of release of increments and pay fixation cannot be decided. In the facts of this case, therefore, it cannot be said that present grievance is independent of the grievance ventilated in the said Writ Petition to enable petitioner to institute another Writ Petition.

9. A person cannot multiply litigation on the same cause of action or issue flowing out of same cause of action resulting in instituting a case earlier and which is pending consideration of this Court. I am of the considered opinion that for all incidental issues flowing out of an issue, which is already the subject matter of pending writ petition, ought to be contested/agitated in the said writ petition only. As noted above, petitioner is working as Junior Assistant in view of stay granted by APAT on his reversion. The claim for releasing of annual increments from the year 2010 and fixation of revised pay scales directly flow out of the issue of reversion which is subject matter of first of the two writ petitions mentioned above.

10. I am therefore of the opinion that this writ petition to release annual increments from the year 2010 and to apply pay fixation in the revised pay scales from time to time is not maintainable and is liable to be dismissed. It is accordingly dismissed, leaving it open to petitioner to file appropriate application, as may be advised, in the pending writ petition 1st referred to above. Pending miscellaneous petitions are closed.

JUSTICE P.NAVEEN RAO

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