

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No. 24063 OF 2019

And

WRIT PETITION No.11994 OF 2020

Between:

Dr.Vinay Kumar (died per L.Rs) & others

... **Petitioners**

And

The State of Telangana & others

... **Respondents**

JUDGMENT PRONOUNCED ON : 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

- 1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes**
- 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**

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No. 24063 OF 2019****And****WRIT PETITION No.11994 OF 2020****% 03.06.2024****Between:**

Dr.Vinay Kumar (died per L.Rs) & others

... Petitioners**And**

\$ The State of Telangana & others

... Respondents**< Gist:****> Head Note:**

! Counsel for the Petitioners : Mr. D.Linga Rao

^ Counsel for Respondents : GP for Services-II

? Cases Referred:

1. W.P.No.18205 of 2014
2. (1997) 2 U.J.SC.402

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No. 24063 OF 2019

And

WRIT PETITION No.11994 OF 2020

COMMON ORDER:

W.P.No. 24063 of 2019

Heard learned counsel D. Linga Rao, appearing on behalf of the Petitioners and the learned Government Pleader for Services-II appearing on behalf of the Respondents.

2. The petitioners approached the court seeking prayer as under:

"To issue a Writ of Mandamus declaring the proceedings in Rc. No. 15270/D3/2015 dated 18.09.2019 issued by the respondents on the alleged ground the petitioners are now working on Foreign Deputation in Rajeev Gandhi Institute of Medical Sciences with no fault of them while considering their juniors who are working as Assistant Professors in Medical Colleges under Director of Medical Education from 2009 onwards as illegal arbitrary unjust and in violation of Articles 14, 16 and 21 of the Constitution of India and contrary to Rule of seniority and rule of promotion and set aside the same and holding that the petitioners are entitled to be considered for Career Advancement Scheme Pay scales and Promotional Avenues

including the promotion of Associate Professors and Professors in their respective specialty on par with other similarly situated employees working as Assistant Professors in Medical Colleges under Administrative Control of Director of Medical Education Hyderabad with all consequential benefits duly holding the action of the respondents in rejecting the claim of the petitioners for Career Advancement Scheme Pay scales and promotional avenues including promotions to the post of Associate Professors and Professors”.

3. During the pendency of the present writ petition the 1st Petitioner died and Petitioner Nos.4, 5 and 6 are brought on record as LRs of the deceased Petitioner No.1 as per Court Order dated 23.08.2022 in I.A.No.1 of 2022. The 4th Petitioner is the wife of the deceased 1st Petitioner and 5th and 6th Petitioners are the children of deceased 1st Petitioner.

4. The case of the Petitioner in W.P.No. 24063 of 2019 in brief as per the averments made in the affidavit filed by the Petitioner in support of the present writ petition is as under :

a) Petitioners 1 to 3 are working as Assistant Professors in the Department of Ophthalmology, ENT and Orthopedics in Rajiv Gandhi Institute of Medical Sciences, Medical College, Adilabad,

ever since its inception. Petitioners while working as Civil Assistant Surgeons in A.P.V.V.P District Hospital, Adilabad on deputation and at the time of Conversion of District Hospital, Adilabad into R.I.M.S. all the doctors were given an option to work in R.I.M.S. Hospital, on deputation.

b) The petitioners opted to work in R.I.M.S. Medical College, Adilabad and were informed that being the Civil Surgeon their file would be circulated to Department of Health, A.P.V.V.P and Director of Medical Education. Further, the petitioners were informed that, after surrendering their services, their work order in R.I.M.S would be issued to them.

c) The Head of Department for CAS/Assistant Professors cadre i.e., Respondent No. 2 issued appointment orders to the petitioners as Assistant Professors on Foreign Deputation for 3 (Three) years, despite the petitioners never opting for Foreign Deputation and the same was brought to the notice of Director of Medical Education and to the Director of R.I.M.S.

d) The names of the petitioners were included in the seniority list published by the 2nd respondent and their names were also included in the tentative list of D.M.E. Employees in terms of A.P. Re-organisation Act, 2014.

e) Further, the names of the petitioners were also shown in the "revised and re-fixed provisional Seniority list of teaching faculty working under D.M.E" at SL. No. 165, 94(A) and 123(A) as per the judgment dated 19-10-2010 of Hon'ble Supreme Court of India for implementation of G.O.Ms. No. 325, dated 05.06.1999 and the names of the petitioners were also included in tentative list of State Cadre Employees of Director of Medical Education Department published vide Notification No. 378/SRI/A1/2015-21 dated 25-1-2016.

f) The Government issued orders vide G.O.Ms.No. 425, according permission to the 2nd Respondent to revert to Civil Surgeon Specialists/Dy. Civil Surgeons of the District Hospitals of Adilabad and Srikakulam Districts as Civil Assistant Surgeons and absorbed as Assistant Professors/Tutors in teaching in R.I.M.S, Adilabad and Srikakulam Districts w.e.f. 02-05-2008 with the condition that their lien would not be maintained in parent department.

g) However, the above relief was not granted to the petitioners, and the petitioners made a representation to the 2nd Respondent on 15-02-2019 with regard to denial of the benefits

and to issue necessary order to that effect and the same is pending.

h) The pay scales of the petitioners as per the orders in G.O.Ms. 816 Health, were to be revised from Rs.15,600 to Rs.39,100/- and that the pay scales of the petitioners shall be de-linked from the State Government Pay Revision Commission and will be linked to U.G.C Scales, whenever they are ready.

i) The above revision in pay scales has been further clarified by the Government vide G.O.Ms. No. 127 dated 24.04.2008 and were further confirmed in G.O.Ms. 216, dated 17.06.2008 extending the U.G.C scales to doctors working in the cadre of D.M.E./A.D.M.E/Principals of Medical Colleges/Superintendents of Teaching Hospitals.

j) The petitioners were not only denied the above mentioned benefits, but the Transport allowance were also denied which were sanctioned by the Government under G.O.Ms. 78, dated 31.03.2010.

k) Even though they have been deputed to R.I.M.S Adilabad, they are being denied of the extended benefits when compared to the similarly situated persons.

l) The Petitioners aggrieved by the non-consideration of their claims approached this Court earlier through W.P. No. 8075 of 2019, wherein this Court disposed of the said Writ Petition directing the respondents to consider the petitioners' representation, dated 15.02.2019.

m) Following the orders, the petitioners have submitted their representation on 03-09-2019 to the respondents. The Respondents have replied vide Rc. No. 15270/D3/2015 to the petitioners that the Director of Medical Institutions while preparing the tentative list of doctors have erroneously included the names of the petitioners 1 to 3 and that their names were finally deleted from the list of DME Employees and the same was informed to the Government, as the petitioners were working under foreign deputation in DME Scheme and that they were not regular DME employees and that they were employees of Telangana Vaidya Vidhana Parishad.

n) The petitioners' removal from DMR Employees has not been communicated to them and no notice has been served on them and also that the 2nd Respondent should have forwarded their representation to the Government, as he was not the competent authority to adjudge on the issue.

o) The deletion of the petitioners' names from the seniority list is done with the intention to frustrate the just clause of that the 2nd respondent developed grudge against them.

p) The Petitioners services deputation to another department is treated as equivalent to the service in the present department and they relied on the judgment of Hon'ble Supreme Court in 1969 SLR 346.

q) The action of the respondents in neither absorbing as Assistant Professors on permanent basis in RIMS Medical College, Adilabad nor extending the benefits of Career Advancement Scheme to the post of Associate Professors and professors keeping in view the lien vide Rc.No.15270/D3/2015, dated 18.09.2019 is wholly arbitrary, illegal and violation of Articles 14, 16 and 21 of the Constitution of India. Hence, this writ petition is filed.

W.P.No. 11994 of 2020

5. Heard learned counsel D. Linga Rao, appearing on behalf of the Petitioners and the learned Government Pleader for Services-II appearing on behalf of the Respondents.

6. The Petitioner filed the present W.P.No. 11994 of 2020 seeking prayer as under :

"To issue a Writ of Mandamus declaring the action of the respondents in seeking to retire the petitioners from service of the 4th respondent with effect from the date on which they attain the age of fifty eight 58 years considering the petitioners as Civil Assistant Surgeons on foreign deputation Without extending the superannuation age of 65 years on par with the similarly situated doctors working in Teaching cadre in Government Medical and Dental Colleges and Hospitals in Telangana as being arbitrary illegal unjust discriminatory Contrary to the provisions of the A.P. Public Employment Regulation of Age of Superannuation Act, 1984 as amended from time to time and in violation of Articles 14 and 16 of the Constitution of India and consequently hold that the petitioners are entitled to be continued in service up to the age of Sixty Five 65 years with all consequential benefits on par with doctors working in Teaching cadre in Government Medical and Dental Colleges and Hospitals in Telangana State in terms of G.O. Ms. No. 37, dated 24.07.2019 ".

PERUSED THE RECORD :

7. G.O.Ms.No.425, dated 11.12.2008 issued by the 1st respondent, reads as under:

"In the reference 1st read above the Director of Medical Education, Hyderabad has issued a Circular inviting options

from the Doctors working under the control of Directorate of Health and Commissioner, A.P. Vaidya Vidhana Parishad to work in the Semi-autonomous Institutions at RIMS, Adilabad, Kadapa and Srikakulam on deputation basis. As per the relevant Act, the Doctors, who opted for deputation in the institution shall continue to draw their own scale of pay and allowances, the teaching faculty appointed on direct recruitment shall be offered the consolidated remuneration per month on contract basis with certain perks without any reference to pay scales and pension, if any. In response to the above circular, certain Dy.Civil Surgeons and Civil Surgeon Specialists have submitted their options to work in RIMS, Adilabad and Srikakulam. Accordingly, they have submitted their letters of undertaking accepting the terms and conditions of Semi-Autonomous Act that though they are above the level of Asst. Professors, they have to be reverted as Civil Assistant Surgeon (CAS) and to be taken to the teaching side as Tutor / Assistant Professor and the pay will be fixed in the cadre of Assistant Professor without any pay protection in the cadre of Civil Surgeon Specialist and Dy Civil Surgeon as the case may be, and they have to stand their chance for promotion to the post of Associate Professor in their turn, and they have requested for the suitable post at RIMS, Adilabad and Srikakulam.

2. The Director of Medical Education while enclosing the letters of undertaking of the following Civil Surgeon Specialists and Deputy Civil surgeons of District Hospitals of Adilabad and Srikakulam, has requested to revert them

back as Civil Assistant Surgeons and absorb them as Assistant Professors/ Tutors in RIMS, Adilabad and Srikakulam from 2.5.2008 the date on which they have submitted their declaration forms to the Medical Council of India, so that these Civil surgeon Specialists and Dy. Civil Surgeons will not become juniors as Asst. Professors to the Civil Assistant Surgeons, who are working in the same Institutions, as they have already been absorbed by Director of Medical education and designated as Assistant Professors at RIMS, Adilabad and Srikakulam.

ADILABAD

1. Dr. Baliram Chitke, M.S. C.S.S.
2. Dr.Sushma Bhoos Reddy. M.D. C.S.S.Dist. Hospital
3. Dr. M.Rama Krishna Raju, D.G.O. D.C.S.
4. Dr.Mohd Idris Akbam. M.S. C.S.S.
5. Dr Sandeep Pawar, M.D. C.S.C.
6. Dr. K.Ashok, M.S. C.S.S.
7. Dr. K.Ashirvadham, DCH. C.S.S.

SRIKAKULAM

8. Dr. M.V.Lakshmana Kumar. C.S.S.
9. Dr. K.Sunil Naik, C.S.S.
- 10 . Dr. T.Sasikala, C.S.S.
11. Dr. D.Parvathi, C.S.S.
12. Dr. Ch. Shanta Ram, C.S.S.
13. Dr. M.Sarada, D.C.S.
14. Dr. T.V.Ramana Rao, D.C.S.

3. Government after careful examination of the matter, hereby accord permission to Director of Medical Education to revert the above Civil Surgeon Specialists/Dy.Civil Surgeons of the District Hospitals of Adilabad and Srikakulam Districts, as Civil Assistant Surgeons and absorb them as Assistant Professors/Tutors in teaching side in RIMS, Adilabad and Srikakulam w.e.f. 02.05.2008

the date on which they have submitted their declarations to the M.C.I., subject to the condition that their lien will not be maintained in their parent department.

4. The Director of Medical Education/Director of Health/Commissioner, A.P.V.V.P., Hyderabad shall take necessary action in the matter accordingly."

8. The proceedings dated 18.09.2019 vide RC No.15270/D3/2015, reads as under:

"With reference to the subject cited, Dr. Vinay Kumar, Dr.P.Satyanarayana and Dr.L. Thippaswamy Naik working as Assistant Professor in RIMS, Adilabad have filed W.P vide in the reference 2nd cited with a plea that, to direct the respondents to consider extending the benefit of Career Advancement Scheme Pay Scales and Promotional Avenues including promotion of Associate Professors in their respective Specialty before any of the Juniors working in the Medical Colleges under the Director of Medical Education, Hyderabad are considered on the basis of Letter dated 15.02.2019 and to pass such order or orders as this Hon'ble Court may deem fit and proper in the Circumstances of the case.

The Hon'ble High Court has passed the following orders dated 21.08.2019 in W.P. No.8075 of 2019 "Directing the respondents to consider the representation submitted by the petitioners on 15.02.2019 and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order" The writ petition is disposed of. No order as to costs.

In this connection, the three (03) petitioners have submitted representations dated 15.02.2019 wherein, to extending the benefit of Career Advancement Scheme pay scales to them since, they are working in RIMS, Adilabad from 2008. The matter have been examined as per rules and provisions. The following facts submitted that, the DME has given foreign service deputation as per G.O.Ms.No.10, Finance & Planning, dated 22.01.1993 vide Rc.No 21350/DME (Acad.), /2008, dated 10.07.2008,

21841 / DME (Acad.)/2008, dated 10.07.2008 and 21846/ DME (Acad.)/2008, dated 10.07.2008 to the above doctors as Assistant Professors to RIMS, Adilabad for a period of 3 years and kept at the disposal of the Director, RIMS, Adilabad, and also as per letter no. RIMS / 129/Plg, dated 18.07.2008. They were observed w.e.f.17.07.2008 working as Assistant Professor in RIMS, Adilabad and they submitted their option forms to the Telangana Government during the reorganization/bifurcation of united state of A.P. The request of the petitioners for maintaining of lien is pending with Director of Public Health and Family Welfare, Telangana, Hyderabad and also as per letter No. RIMS / 129/ Plg, dated 18.07.2008.

The Director of Medical Education, Telangana, Hyderabad has prepared tentative list of doctors who are working under the control of DME at the time of bifurcation. The above three (03) doctors name were also included in the tentative list finally their names were deleted from the list of DME employees list and their names were erroneously mentioned in DME list and the same was also informed to Government, as they were working under foreign deputation in DME side from the Telangana Vaidya Vidhana Parishad since, they were not a regular DME employee. They are the employees of Telangana Vaidya Vidhana Parishad,

The RIMS, Adilabad vide Rc.No.E1/754/1/2016, Dated 09.06.2016 has forwarded the representations of the individuals for extension of their deputations to fulfill the norms of the Medical Council of India as well as for smooth running of the institution due to shortage of faculty. The DME has also submitted proposal for extension of deputation for two doctors i.e., Dr. Vinay Kumar, Assistant Professor, Ophthalmology and Dr.P.Satyanarayana, Assistant Professor, ENT vide this office letter no. 15270/D3/ 2015 dated 27.08.2016. But, no orders were received in this regard. Meanwhile, they were continued on deputation without permission of the Government. The audit objections were also raised regarding the continuation of the above three doctors even after completion of their deputation period on Foreign Service by 2011.

It is informed that, the Government have issued orders in G.O.Ms.No. 425, HM & FW (A1) Dept, dated 11.12.2008 by

issuing permission to the following doctors in District Hospital of Adilabad to work on deputation in RIMS, Adialabd except the above three petitioners who were filed W.P.No.8075 of 2019.

1. Dr. Baliram Chitke, MS, CSS
2. Dr.Sushma Bhoos Reddy, MD, C.S.S.
3. Dr.M.Rama Krishna Raju, D.G.O, D.C.S
4. Dr.Mohd. Idris Akbani, M.S. C.S.S
5. Dr.Sandeep Pawar, MD, C.S.S
6. Dr.K.Ashok, M.S., C.S.S.
7. Dr.K.Ashirvadam, D.CH, C.S.S.

In the circumstances stated at above, the representation of the petitioners dated 15.02.2019 have been examined according to rules and provisions by implementing the Hon'ble High Court orders dated 21.08.2019 in W.P.No.8075 of 2019, considered and rejected as it is not feasible for consideration.

9. **G.O.Ms.No.37, dated 24.07.2019** issued by the 1st respondent, reads as under:

**"GOVERNMENT OF TELANGANA ABSTRACT
ABSTRACT**

ACTS - STATE - The Telangana Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2019 Publication ordered as Telangana Act No.6 of 2019.

LAW (F) DEPARTMENT

G.O.Ms.No. 37
2019

Dated: 24-07-

The Telangana Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2019, shall be published in the Telangana Gazette in English, Telugu and Urdu languages as Telangana Act No.6 of 2019.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF
TELANGANA)

SECRETARY TO GOVERNMENT,

APPENDIX

The following Act of the Telangana Legislature which was assented to by the Governor of Telangana on the 23rd July, 2019 and the said assent is hereby first published on the 24th July, 2019 in the Telangana Gazette for general information: -

(Here enter the Act enclosed)
The Telangana Public Employment
(Regulation of Age of Superannuation)
(Amendment) Act, 2019.

10. DISCUSSION AND CONCLUSION :

A) A bare perusal of the record indicates that the Petitioners on an earlier occasion filed W.P.No.8075 OF 2019 with prayer as under :

"to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus by declaring that the petitioners are entitled to be considered for Career Scheme Pay scales and Promotional Avenues including the promotion of Associate Professors and Professors in their respective specialty on par with other similarly situated employees working as Assistant Professors in Medical Colleges under Administrative Control of Director of Medical Education, Hyderabad with all consequential benefits on the basis of their representations dated 15-2-2019 duly holding the action of the respondents in not considering the claim of the petitioners for Career Advancement Scheme Pay scales and promotional avenues including promotions to the post of Associate Professors and Professors on the alleged ground the petitioners are now working on Foreign Deputation in Rajeev Gandhi institute of Medical Sciences with no fault of

them while considering their juniors who are working as Assistant Professors in Medical Colleges under Director of Medical Education from 2009 onwards as illegal, arbitrary, unjust and in violation of Articles 14, 16 and 21 of the Constitution of India and contrary to Rule of seniority and rule of promotion.”

and the same was disposed of on 21.08.2019 observing as under.

“This Court having considered the rival submissions, is of the considered view that this writ petition can be disposed of directing the respondents to consider the representation submitted by the petitioners on 15.02.2019 and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. No order as to costs.”

B) In pursuance to the orders of this Court dated 21.08.2019 passed in W.P.No.8075 of 2019, the 2nd Respondent herein issued the impugned proceedings vide R.C. No.15270/D3/2015, dated 18.09.2019 which are challenged in W.P.No.24063 of 2019.

C) A bare perusal of the order impugned dated 18.09.2019 indicates that the Director of Medical Education, Telangana, Hyderabad had prepared tentative list of doctors, who are

working under the control of DME at the time of bifurcation and the above 3 doctors names were also included in the tentative list and finally their names were deleted from the list of DME employees list and that the Government was informed that the Petitioners were not regular DME employees and they are employees of Telangana Vaidya Vidhana Parishad.

D) A bare perusal of the impugned order dated 18.09.2019 also indicates as borne on record that DME had submitted proposal for extension of deputation for 2 doctors i.e., Dr. Vinay Kumar, Assistant Professor Opthomology and Dr. P.Satyanarayana, Assistant Professor ENT, vide Office Letter No.15270/D3/ 2015, dated 27.08.2016, but however, no orders had been received in this regard.

E) A bare perusal of G.O.Ms.No.425, dated 11.12.2008 clearly indicates the details of few other doctors who had been absorbed as Assistant Professors tutors in teaching side in RIMS, Adilabad and Srikakulam w.e.f., 02.05.2008 the date on which they had submitted their declarations to the MCI subject to the condition that their LIEN will not be maintained in their parent department.

F) A bare perusal of the material on record clearly indicates that the 1st Respondent issued G.O.Ms.No.425, dated

11.12.2008 permitting few doctors in District hospital of Adilabad to work on deputation in RIMS, but however, the names of the Petitioners were not included in the said list though the impugned proceedings dated 18.09.2019 clearly indicate that the Director of Medical Education had submitted proposal for extension of deputation for 2 doctors.

G) It is the specific case of the Petitioners' that the 2nd Respondent Director of Medical Education, Hyderabad had furnished revised and refixed provisional seniority list of teaching faculty working under DME as per the Hon'ble Supreme Court of India Judgement dated 19.10.2010 for implementation of G.O.Ms.No.325, dated 05.06.1999 and the names of the Petitioners are shown as under in the said list.

- 1. Deceased Petitioner Dr. Vinay Kumar at SI.No.165.**
- 2. Dr. P.Satyanarayana at SI.No.94(A)**
- 3. Dr. L.Thippa Swamy Naik at SI.No.123(A).**

H) In the tentative list of State cadre employees of Director of Medical Education Department published vide Notification No.378/SRI/A1/2015-21, dated 25.01.2016 the names of the Petitioners are shown as under :

- 1. Deceased Petitioner Dr. Vinay Kumar at SI.No.76.**

2. **Dr. P.Satyanarayana at Sl.No.30.**
3. **Dr. L.Thippa Swamy Naik at Sl.No.24.**

I) A bare perusal of the impugned proceedings dated 18.09.2019 issued by the 2nd Respondent vide RC No.15270/D3/2015 clearly indicates that the 2nd Respondent rejected the representation of the Petitioners dated 15.02.2019 in pursuance to the orders of this Court dated 21.08.2019 in W.P.No.8075/2019 on the following grounds:

- i. That the Petitioners are being continued on deputation beyond the permitted period.
- ii. The Petitioners are not entitled for the relief claimed for by the Petitioners since the Petitioners names are not included in G.O.Ms.No.425, dated 11.12.2008.

J) This Court opines that it is not justified to reject the claim of the Petitioners on the above two grounds since the impugned order dated 18.09.2019 itself indicates that the 2nd Respondent submitted proposal for extension of deputation for two doctors i.e., Dr. Vinay Kumar and Dr. P.Satyanarayana vide Office letter No.15270/D3/2015, dated 27.08.2016 and admittedly as on the date of filing of the present writ petitions No.24603/2019 and 11994/2020 the Petitioners had been working as

Assistant Professors in ENT and Orthopedic respectively since the inception of Rajiv Gandhi Medical Sciences, Medical College, Adilabad from the year 2008, but though the Respondent No.4 extracted the duties and functions of Assistant Professors through the Petitioners, the Respondent No.2, DME however has not included the Petitioners in the list of Assistant Professors from promotion as Associate Professor in their respective Departments.

K) It is not disputed even by the 2nd Respondent that in response to a circular issued by the 2nd Respondent dated 25.01.2008 calling for options from the doctors in service under the State Government/A.P. Vaidya Vidhana Parishad to opt for deputation in their own scale of pay either in the same institute or any other semi autonomous institutions on or before 15.02.2008, the Petitioners exercised their options within the stipulated time i.e., 15.02.2008.

L) Section 22 Note-I of the Andhra Pradesh Government Medical and Dental Institutions (Conversion into Semi-Autonomous Institutions) Act, 2007, clearly

indicates that options once exercised are irrevocable and final, but however, the 2nd Respondent is not considering the petitioners' as teaching faculty and neither extending the enhanced age of superannuation of 65 years on par with the Assistant Professors in terms of G.O.Ms.No.37, dated 24.07.2019 nor releasing the benefit of career advancement scheme and promotional avenues to the petitioners as entitled by law.

M) It is borne on record that the State Legislative Assembly on 18.07.2019 passed an Amendment to the Telangana Public Employment Age from 58 to 65 years for faculty members working in Government of Telangana on 23.07.2019 which came into effect immediately. Accordingly, in Section 3 to Sub-Section (1) of the Telangana Public Employment (Regulation of Age of Superannuation) Act, 1984, the provision namely Professors, Associate Professors and Assistant Professors of Government Medical Colleges, Government Dental Colleges, including Semi-Autonomous Medical Colleges shall retire from service on the afternoon of the last day of the month in which he/she attains the age of 65 years and G.O.Ms.No.37, dated 24.07.2019 was issued by the 1st

Respondent subsequent to the Amendment of Section 3, Act No.23 of 1984 on 23.07.2019.

N) A Division Bench of this Court in W.P.No.18205/2014 and batch disposed of a batch of writ petitions vide its order dated 07.03.2017 directing the State Government to consider the proposals submitted by each of the Corporations /Societies/Companies for enhancement of the age of superannuation from 58 to 60 years in accordance with law and take a decision there upon at the earliest in any event not later than 4 months from the date of receipt of the copy of the said order. Admittedly, the age of superannuation is 65 years in so far as the teaching cadre working in Government Medical and Dental Colleges and Hospitals in the Telangana State as per G.O.Ms.No.37, dated 24.07.2019, but however, in respect of the Petitioners there is a disparity and the Petitioners have specifically attributed malafides against the Respondents at Para 22 of the affidavit filed by the Petitioners in W.P.No.24063/2019.

O) The Apex Court in the judgment reported in (1997) 2 U.J. SC 402 dated 08.07.1997 in Osmania University Vs.

V.S. Muthurangam and Others, held that the judgment of the High Court as just and proper directing raising of age of non-teaching staff at par with teaching staff and holding the disparity in age of superannuation between the teaching cadre and non-teaching cadre as illegal.

P) A bare perusal of the order impugned dated 18.09.2019 issued by the 2nd Respondent vide Proceedings RC No.15270/D3/2015, clearly indicates that the order impugned is without any reasons and without any justification.

11. This Court opines that the judgments relied upon by the learned counsel appearing on behalf of the respondents do not apply to the facts of the present case, and the plea of the 4th respondent that the petitioners are Assistant Professors who are treated as non teaching staff and also on foreign service deputation hence they are not entitled for the relief pertaining to the retirement is without any justification hence rejected.

12. Taking into consideration:

i) The aforesaid facts and circumstances of the case,

- ii) The Division Bench orders dated 07.03.2017 passed in W.P.No.18205 of 2014 and batch,
- iii) The order of the Apex Court in Osmania University Vs. V.S. Muthurangam & Others dated 08.07.1997 reported in 1997 (2) UJ SC 402.
- iv) The averments in the counter affidavit filed on behalf of the Respondents.
- v) Taking in to consideration G.O.Ms.No.37, dated 24.07.2019
- vi) W.P.No.24603 of 2019 and W.P.No.11994 of 2020 are allowed and the order impugned of the 2nd Respondent vide RC No.15270/D3/2015, dated 18.09.2019 is set aside and the 2nd Respondent is directed to reconsider the representation of the petitioners dated 15.02.2019 seeking extending the benefit of career advancement scheme pay scales and promotional avenues and also the claim of the petitioners for extending the superannuation age to 65 years to the petitioner Nos.2 and 3 in W.P.No.24603 of 2019 and 11994 of 2020, on par with the similarly situated doctors working in teaching cadres in Government Dental and Medical Colleges in Telangana, in accordance to law, in terms of G.O.Ms.No.37, dated 24.07.2019, within a period of four (04) weeks from the date of receipt of the copy of the order and duly communicate the decision to the petitioner.

Miscellaneous petitions, if any, pending shall stand closed.

However, there shall be no order as to costs.

SUREPALLI NANDA,J

Date: 03.06.2024

Note: L.R.Copy to be marked
(B/o) Yvkr