

APHC010281602024



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

[3470]

THURSDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND**

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 14253/2024

Between:

S Madhusudana Raju and Others

...PETITIONER(S)

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1.NUTHALAPATI KRISHNA MURTHY

Counsel for the Respondent(S):

1.GP FOR SERVICES IV

The Court made the following:

ORDER: *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

1. Heard Sri Nuthalapati Krishna Murthy, learned counsel for the petitioners and Sri T.Vishnu Teja, learned Special Government Pleader representing respondent Nos.1 and 2.

2. This writ petition is filed by the petitioners for a direction to the respondents to implement the order dated 01.08.2012 in O.A.No.6147 of

2012, passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, "the Tribunal") raising the grievance that the respondents are not implementing the same.

3. By the aforesaid order, the Tribunal allowed the O.A of the petitioners directing the respondents to treat the period of temporary service rendered by the petitioners from the date of their initial appointment till the date their service were regularised as qualifying services for calculating their pension and also for granting 8/16 years scales under automatic advancement scheme.

4. The petitioners' O.A was allowed as many other O.As on the same subject had already been allowed. One such O.A.No.1807 of 2012 was decided on 30.03.2012 with the same directions, and relying on this order, the present petition O.A was also allowed. The respondents filed W.P.No.21086 of 2012 challenging the order in O.A.No.1807 of 2012 along with many other writ petitions and all the batch of writ petitions were dismissed on 20.11.2018 and challenging the same the respondents filed S.L.P.No.24176 of 2019, which was also dismissed by the Hon'ble Apex Court on 18.11.2022.

5. Previously, the applicants of many other O.As approached this Court for implementation of the orders of the Tribunal passed in their respective O.As. In one such W.P.No.26514 of 2022 a Co-ordinate Bench of this Court disposed of the writ petition directing the respondents to

implement the order dated 25.04.2012 of the Tribunal in O.A.No.3338 of 2012, vide judgment dated 23.09.2022 (Ex.P.5). Similarly, in other W.P.No.12563 of 2019 filed by other petitioners, the order was passed to implement the order of the Tribunal. It is submitted that in compliance of those orders, the respondents have implemented the orders of the Tribunal.

6. On 11.07.2024 considering the submissions made by the learned counsels for the petitioners as also the learned Assistant Government Pleader, rejecting the objection that the writ petition suffers from laches, this court passed the following order:

- “1. Heard learned counsel for the petitioners and learned Assistant Government Pleader for Services-I for respondents.
2. The petitioners filed O.A.No.6147 of 2012 before Andhra Pradesh Administrative Tribunal at Hyderabad (in short ‘Tribunal’) for direction to the respondents therein to regularise their service taking into account their service rendered on honorarium basis which was not taken into consideration. The OA was allowed vide judgment dated 01.08.2012.
3. The Tribunal had previously allowed many OAs on the same subject, one of which O.A.No.1807 of 2012 was decided on 30.03.2012 with the same directions. Relying on that order, the OA of petitioners was also allowed.
4. On the same subject, the State respondents filed many Writ Petitions i.e., W.P.No.20691 of 2012 and batch, in which W.P.No.21086 of 2012 was filed challenging the order dated 30.03.2012 in O.A.No.1807 of 2012. The Writ Petition was dismissed on 20.11.2018. Challenging the same, the respondents

approached the Hon'ble Apex Court in SLP.No.24176 of 2019 which was dismissed on 18.11.2022.

5. Thereafter, the petitioners' case is that they submitted representation for implementation of the order passed in OA but the order has yet not been complied. The petitioners have filed the present Writ Petition for direction to the respondents to implement the order dated 01.08.2012 in O.A.No.6147 of 2012.

6. Learned counsel for the petitioners submits that after the disposal of the SLP the respondents have no justification not to implement the order. He submits that previously, the applicants of other OAs approached this Court for implementation of orders of the Tribunal passed in their respective OA(s) and in one of such W.P.No.26514 of 2022 and the other W.P.No.12563 of 2019, directions have been issued to the respondents to implement the order in favour of the respective petitioners.

7. Learned Assistant Government Pleader submits that the petitioners have approached belatedly. The order sought to be implemented is dated 01.08.2012. This writ petition is filed in the year 2024. He placed reliance in the judgment of High Court of Judicature at Hyderabad, in Mohammed Yakub Ali v. State of Telangana (W.P.No.28539 of 2014) and of this Court in Boddepalli Paul Raju v. State of Andhra Pradesh (W.P.No.11003 of 2023) decided on 31.08.2023 to contend that the petition deserves to be dismissed as there is no sufficient cause to condone the laches.

8. We have considered the aforesaid submissions.

9. The submission of the learned Assistant Government Pleader on the point of laches deserves to be rejected.

10. Though the order sought to be implemented in dated 01.08.2012 but the order on the basis of which, the order dated 01.08.2012 was passed, was under challenge in writ petition and in SLP at the instance of the state. The SLP was dismissed on 18.11.2022. So in our view it cannot be said that the writ petition

suffers from laches. In any case, there is sufficient cause for not approaching earlier for the relief claimed in this petition and approaching only after decision in SLP and approaching the respondents to implement the order of the Tribunal.

11. In the case of Mohammad Yakub (supra) it has been observed that though there is no period of limitation for filing the writ petition but still the petitioners have to approach within a reasonable period which the judgment says of three years. The present petition is within three years of the judgment in SLP.

12. In W.P.No.11003 of 2023, the petitioner therein had not joined for 20 years & the writ petition was also filed after more than three years. There was also no proceeding pending; that is another distinguishing fact.

13. In W.P.No.4178 of 2021 decided on 23.02.2021, the order of the Tribunal passed in the year 2003 was affirmed in the writ petition in 2010. The petitioner therein approached for implementation in the year 2021. In the present case, the order of the Tribunal based upon which the order in the present petitioners' case was passed stood affirmed only in the year 2022.

14. We are also of the view that once the SLP was dismissed on 18.11.2022, the State respondents must have ensured compliance of the judgment of the Tribunal as also the judgments which were passed based on earlier judgment. Non-compliance, and thereby compelling the petitioners to approach this Court, for implementation of the order, appears to us to be unjustified on the part of the respondents.

15. Let the respondent Nos.1 and 2 appear to explain as to why even after the decision by Hon'ble the Apex Court, the order of the Tribunal in the present case has not been implemented and as to why the petitioners are thus forced to approach this Court for the implementation of the order passed by the Tribunal.

16. Let the respondents appear on 18.07.2024.

17. The respondents are at liberty to appear through virtual mode.

18. Post on 18.07.2024.”

7. Today Dr.Manjula. D. Hosmani, Secretary, Health & Family Welfare is present.

8. Learned Special Government Pleader requests time to file counter affidavit. However, the facts as stated in the writ petition, filing of the O.A.No.6147 of 2012, the judgment therein dated 01.08.2012, many other O.As on the same subject having been allowed by the Tribunal and the dismissal of the present respondents' writ petitions arising out of the order of the Tribunal dated 30.03.2012 O.A.No.1807 of 2012, vide order dated 20.11.2018 and also the dismissal of their S.L.P. by the Hon'ble Apex Court on 18.11.2022 are not disputed. Learned Special Government Pleader also does not dispute that the petitioners' case is the same as of the applicants of other O.As and also that the order passed in many other O.As have been complied with. In some petitions, after direction to implement the order by this Court.

9. We are of the view that in view of the aforesaid, the counter is not required. The writ petition can be decided on the admitted facts on record.

10. The petitioners have annexed the orders passed in W.P.No.26514 of 2022 and W.P.No.12563 of 2019 where directions were given to implement the order in favour of the respective those petitioners.

11. The present petitioners are similarly situated. They are entitled for the same benefit. We do not find any reason not to pass the same order for

implementation, as was passed in the cases of the similarly situated persons by the Co-ordinate Benches of this Court and that too after dismissal of S.L.P of the State.

12. We are of the view that in a Welfare State and the Country governed by rule of law, the respondents-State authorities must have by now implemented the order, after dismissal of the S.L.P by the Hon'ble Apex Court, as these petitioners were also granted the same benefit of the order of the Tribunal, which has, attained finality. The compliance of the Court's orders and directions is imperative, else, it would have the tendency of shaking the confidence of public in the administration of justice. Long inaction towards compliance of the Court's orders and directions, tantamount to, obstruct the course of justice inasmuch as the compliance of the Court's order has to be viewed as an integral part of dispensation of justice and administration of justice.

13. In **Maninderjit Singh Bitta vs. Union of India and others**¹, the Hon'ble Apex Court has observed and held as under:

"26. It is also of some relevancy to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the Judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs (refer T.N. Godavarman

¹ (2012) 1 SCC 273

Thirumulpad's case [(2006) 5 SCC 1]. The proceedings before the highest court of the land in a public interest litigation, attain even more significance. These are the cases which come up for hearing before the court on a grievance raised by the public at large or public spirited persons. The State itself places matters before the Court for determination which would fall, statutorily or otherwise, in the domain of the executive authority

27. It is where the State and its instrumentalities have failed to discharge its statutory functions or have acted adversely to the larger public interest that the courts are called upon to interfere in exercise of their extraordinary jurisdiction, to ensure maintenance of the rule of law. These are the cases which have impact in rem or on larger section of the society and not in personam simplicitor. Courts are called upon to exercise jurisdiction with twin objects in mind. Firstly, to punish the persons who have disobeyed or not carried out orders of the court i.e. for their past conduct. Secondly, to pass such orders, including imprisonment and use the contempt jurisdiction as a tool for compliance of its orders in future. This principle has been applied in the United States and Australia as well.”

14. In **Subrata Roy Sahara vs. Union of India and others**², the Hon'ble Apex Court has observed and held as under:

“17. There is no escape from, acceptance, or obedience, or compliance with an order passed by the Supreme Court, which is the final and the highest Court in the country. Where would we find ourselves, if Parliament or a State Legislature insists, that a statutory provision struck down as unconstitutional, is valid? Or, if a decision rendered by the Supreme Court in exercise of its original jurisdiction is not accepted for compliance, by either the Government of India, and/or one or the other State Government(s) concerned? What if, the Government or instrumentality concerned, chooses not to give effect to a Court order, declaring the fundamental right of a citizen? Or, a determination rendered by a Court to give effect to a legal right, is not acceptable for compliance? Where would we be, if decisions on private disputes rendered between

²(2014) 8 SCC 470

private individuals, are not complied with? The answer though preposterous, is not far-fetched. In view of the functional position of the Supreme Court depicted above, non-compliance with its orders would dislodge the cornerstone maintaining the equilibrium and equanimity in the country's governance. There would be a breakdown of constitutional functioning. It would be a mayhem of sorts."

15. Thus, considering the facts and circumstances, the writ petition is allowed directing the respondents to make compliance with the order of the Tribunal dated 01.08.2012 in O.A.No.6147 of 2012 within one week.

16. Compliance report be filed before this Court by 25.07.2024.

17. The matter is posted to 25.07.2024 only for perusal of the compliance report.

18. If the order is complied with, the Officer present need not appear on the next date.

19. There shall be no order as to costs.

As a sequel, pending applications, if any, shall stand closed.

RAVI NATH TILHARI, J

NYAPATHY VIJAY, J

Date: 18.07.2024

Note: Issue CC by 19.07.2024

(B/o)

IS/Gk

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

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