

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI
(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE THIRTY DAY OF AUGUST,
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SMT JUSTICE V.SUJATHA
WRIT PETITION NO: 20999 OF 2023



Between:

K.Umamaheswara Rao,

...Petitioner

AND

1. The State of Andhra Pradesh, Rep.by it's Principal Secretary, Technical Education Department, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The State Board of Technical Education and Training, A.P Higher Education Bhavan, 5th Floor, A.N.R Towers Jammichettu Street, Prasadampadu, Vijayawada- 521108 Represented by it's Commissioner.
3. All India Council for Technical Education, Indira Gandhi Sports Complex, I.P Estate, Delhi-2 Represented by it's Secretary.
4. Bapatla Engineering College, Mahatmajipuram, Bapatla, Bapatla Mandal Guntur District Andhra Pradesh -522101, Represented by its Secretary
5. The Principal, Bapatla Engineering College, Mahatmajipuram, Bapatla, Bapatla Mandal Guntur District Andhra Pradesh -522101
6. The Bapatla Education Society, Bapatla Represented by its President Mahatmaji Puram, GBC Road, Bapatla, Guntur District - 522 101

...Respondents

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of mandamus declaring that the action of the 5th Respondent in contemplating to retire the Petitioner on attaining 60 years of age and the non-continuation of the petitioner's service as Record Assistant, up to the age of 62 Years, without issuing any notice as wholly illegal, arbitrary, contrary to the provisions of Section 78-A of the A.P Education Act, Andhra Pradesh Education (Amendment) Ordinance, 2022, AFRC Regulations AND AICTE Regulations, besides being violation of principles of natural justice, Article 14 AND 21 of Constitution of India.

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the Respondents including No's.4 to 6 to continue the Petitioner herein in service as 'Record Assistant' until the age of 62 years in view of the amended Section 78A of A.P Education Act, Andhra Pradesh Education (Amendment) Ordinance, 2022, AFRC guidelines & AICTE Regulations and in furtherance of earlier views taken by this Hon'ble

court in respective matters, pending disposal of WP.No.20999 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Challa Gunaranjan, Advocate for the Petitioner and GP for Higher Education for the Respondent Nos.1 & 2, the Court made the following;

ORDER:

“Heard both sides.

Learned counsel for the petitioner would submit that in similar circumstances, this Court granted an interim order dated 27.06.2022 in W.P.No.17885 of 2022 and requested to pass a similar order in this writ petition also.

The interim order dated 27.06.2022 passed in W.P.No.17885 of 2022 is as follows:

“The case of the petitioner is that he is working as a Junior mechanic in the 5th respondent College and the 3rd respondent society has no separate service rules for its employees and it has been following the service-rules which are applicable to the Government employees; when the age of superannuation was increased from 58 years to 60 years to the employees of the State of Andhra Pradesh, the 3rd respondent Issued retirement intimation letter dated 01.04.2020 and challenging the same petitioner filed WP No.8683 of 2020 and the said Writ Petition was allowed on 07.08.2020, as such petitioner is being continued in service till 30.06.2022; while so, the State of Andhra Pradesh enhanced the age of superannuation from 60 years to 62 years, hence petitioner is entitled to continue up to 30.06.2024, but the

respondents 3 to 5 are taking steps to retire the petitioner from service from 30.06.2022 treating the age of superannuation as 60 years; the 2nd respondent University also enhanced the age of superannuation to 62 years through proceedings dated 01.02.2022; the respondents did not even give notice informing that the petitioner would be retiring on 30.06.2022; hence, the Writ Petition.

As seen from the order in WP No.8683 of 2020, dated 07.08.2020, the common order passed in WP Nos.6916 and 7266 of 2019, dated 13.09.2019, was followed. The said W.P.Nos.6916 and 7266 of 2019 were allowed directing continuation of the petitioners therein in service up to the age of 60 years. As seen from the record, even though Writ Appeals were filed, the order passed in WP Nos.6916 and 7266 of 2019 were complied with and even as seen from the affidavit filed in support of the Writ Petition, the orders passed in WP No.8683 of 2020 were complied with.

In view of the facts and circumstances, as the petitioner has shown prima facie case for grant of interim direction, the respondents are directed to continue the petitioner in service till he attains the age of 62 years."

Hence, in view of the aforesaid order, this Court is inclined to pass a similar order in this writ petition also.

Therefore, there shall be an interim direction to the respondents to continue the petitioner in service till the next date of hearing.

Post the matter along with W.P.No.17885 of 2022, after three (3) weeks for hearing.

Respondents are directed to file a counter, if any, by the next date of hearing."

//TRUE COPY//

Sd/- S. SRINIVASA PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Technical Education Department, Secretariat, Velagapudi, Amaravathi, Guntur District, State of Andhra Pradesh.
2. The Commissioner, State Board of Technical Education and Training, A.P Higher Education Bhavan, 5th Floor, A.N.R Towers Jammichettu Street, Prasadampadu, Vijayawada- 521108.
3. The Secretary, All India Council for Technical Education, Indira Gandhi Sports Complex, I.P Estate, Delhi-2.
4. The Secretary Bapatla Engineering College, Mahatmajipuram, Bapatla, Bapatla Mandal Guntur District Andhra Pradesh -522101,
5. The Principal, Bapatla Engineering College, Mahatmajipuram, Bapatla, Bapatla Mandal Guntur District Andhra Pradesh -522101
6. The President, Bapatla Education Society, Bapatla Mahatmaji Puram, GBC Road, Bapatla, Guntur District - 522 101 (Addressee Nos.1 to 6 by RPAD)
7. One CC to Sri. Challa Gunaranjan, Advocate [OPUC]
8. Two CCs to GP for Higher Education, High Court of Andhra Pradesh. [OUT]
9. One spare copy

MM

HIGH COURT

VSJ

DATED:30/08/2023

NOTE: POST THE MATTER ALONG WITH W.P.No.17885 OF 2022

ORDER

WP.No.20999 of 2023



DIRECTION