

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
MONDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND THIRTEEN

: PRESENT:

THE HON'BLE SRI KALYAN JYOTI SENGUPTA, THE CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WPMP.NO:42488 of 2013

IN

WP.NO:20913 of 2011

Between:

- 1 The Government of A.P. Rep.by its Principal Secretary to Government, General Administration Department, Secretariat, Hyderabad
- 2 The Government of A.P. Rep.by its Principal Secretary, School Education Department, Secretariat, Hyderabad
- 3 The Government of A.P. Rep.by its Principal Secretary, Panchayatiraj and Rural Employment, Secretariat, Hyderabad
- 4 Government of Andhra Pradesh, rep. by its Prl. Secretary to Govt. Finance Department, A.P. Treasuries Department, A.P., Secretariat, Hyderabad
(R4 is impleaded as per C.O. dated: 23-12-2013 in WPMP No. 43194 of 2013)

...Petitioners
(Respondents in WP. No. 20913 of 2011
on the file of High Court)

AND

Golla Yadaiah S/o.G.Kistaiah, R/o. H.No.1-8-26/1, NIRD Road, Rajendrangar, Ranga Reddy District, Hyderabad-500030

...Respondent
(Petitioner in-do-)

Petition under Section 151 of C.P.C. praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to modify the order dated 16.08.2011 passed in WP MPNo.25443/2011 in WP.No.20913/2011 giving liberty to the State Government to treat the period of 38 days of A.P. Secretariat Seemandhra Employees Forum as Earned Leave/to be earned/Eligible Leave in terms of G.O. Ns. No. 82, dt: 29-03-2012, pending W.P. No. 20913 of 2011 on the file of the High Court;

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein and the order of the High court dated 16-08-2011 made in WPMP.No.25443 of 2011 & 05-03-2012 made in WPMP No. 7536 of 2012 and upon hearing the arguments of the Additional Advocate General for the petitioners, and Sri B. Sesibushan Rao, Advocate for the respondent, the court made the following

ORDER:

This petition is filed by the State seeking modification of the order dated 16-08-2011 passed by this Court in W.P.M.P. No.25443 of 2011 in W.P. No.20913 of 2011. The order dated 16-08-2011 reads as follows:

“Counter within two weeks.

Operation of G.O.Rt.No.1617, dated: 18-04-2011 which has the effect of keeping the G.O.Ms.No.177, dated: 13-04-2011 in abeyance is stayed until further orders. No modification of G.O.Ms.No.177, dated 13-04-2011 by the Government in the meanwhile except with leave of the Court.

Post the W.P.M.P. after three weeks.”

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The above order was passed in the context of the measures to be taken apropos agitating Government employees as detailed in G.O.Ms. No.177 dated 13-04-2011, which was then sought to be kept in abeyance vide G.O.Ms. No.1617 dated 18-04-2011.

Earlier, the State had sought modification of the above order in W.P.M.P. No.7536 of 2012. This

modification was sought in the light of the proposal of the State to treat the period of absence of agitating Telangana Government employees as earned leave as per the agreement arrived at between the agitating employees and the constituted Group of Ministers, after due discussions. By order dated 05-03-2012, this Court permitted the modification so that the recommendation of the Group of Ministers could be acted upon. The present petition is filed by the State seeking modification of the order dated 16-08-2011 so as to treat the period of 38 days of absence of A.P. Secretariat Seemandra Employees Forum as earned leave/to be earned/eligible leave in terms of G.O.Ms. No.82 dated 29-03-2012. The affidavit filed in support of this petition shows that the State, having accepted a representation from the agitating employees of Seemandhra region, decided to extend to them the benefit that was shown to the agitating employees of Telangana region earlier.

We see no reason to distinguish between the two sets of agitating employees and the petition is accordingly ordered in terms of the earlier order dated 05-03-2012. Thereby, the State shall treat the agitating employees of Seemandhra region on par with the agitating employees of Telangana region as was done earlier. This modification is however subject to the condition that the State take all positive steps to ensure discipline amongst the employees and see that no act or action of insubordination or indiscipline, in violation of settled norms, is tolerated. In such an event, it would be open to the State to take strict measures in accordance with law to maintain proper discipline and decorum amongst its employees in public interest.

To elaborate this, if the service conduct rules prohibit the Government employees from resorting to strike, the same amounts to misconduct. Obviously, no measure can be taken by the Executive Government to circumvent the provision of law. In that case, the order should not be passed purporting to modify or circumvent the legal provision?.

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//TRUE COPY//

ASSISTANT REGISTRAR

for ASSISTANT REGISTRAR

To

- 1 The Principal Secretary to Government, General Administration Department, Secretariat, Hyderabad
 - 2 The Principal Secretary, School Education Department Govt. of A.P.Secretariat, Hyderabad
 - 3 The Principal Secretary, Panchayatiraj and Rural Employment, Govt. of A.P.Secretariat, Hyderabad
 4. The Prl. Secretary to Govt. Finance Department, A.P. Treasuries Department, Government of Andhra Pradesh, Secretariat, Hyderabad
 5. CCs to the Advocate General, High court of A.P.Hyd. (OUT)
 6. One CC to Sri B. Sesibushan Rao Advocate (OPUC)
 7. Two spare copies
- Ksv

www.apteachers.in

Date of drafting: 03-01-2014

HIGH COURT

HCJ
&
SK.J