

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

&

THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA

Writ Appeal Nos. 796 & 797 of 2023

COMMON JUDGMENT: *(per Sri Justice D.V.S.S.Somayajulu)*

Both the writ appeals were taken up for hearing.

2. Initially W.P.No.18225 of 2023 was filed by petitioner/ V.Sreedhar stating that he is entitled to the benefit of the recently amended public employment age of superannuation and he is entitled to continue in the service till he attains the age of 62years. As per the proceeding issued by the respondent No.2 on 07.02.2023, he was informed that he will attain the age of superannuation on 31.07.2023.

3. In the writ petition mentioned above, the I.A.No.2 of 2023 was filed and the order dated 24.07.2023 was passed directing the respondent- university to continue the petitioner in the service till he attains the age of 62 years. While this order was in force, it appears that on 31.07.2023 a further order was issued reliving him from service on 31.07.2023, however making it subject to the result of W.P.No.18225 of 2023.

4. Questioning the second order dated 31.07.2023, W.P.No.19271 of 2023 was filed. In the said writ petition, I.A.No.2 of 2023 was moved and the learned single Judge noticing the earlier order passed dated 24.07.2023 in W.P.No.18225 of 2023, granted interim suspension of operation of the impugned proceedings issued by the respondent No.4. Further, the respondents were directed to continue the service of the petitioner till he attains the age of superannuation of 62 years. The, proceedings dated 31.07.2023 were suspended. Questioning the order dated 24.07.2023 in W.P. No. 18225 of 2023, W.A.No.797 of 2023 was filed. Questioning the subsequent order in W.P.No.19271 of 2023, W.A.No.796 of 2023 was filed Interlocutory applications are also filed to suspend the orders mentioned above.

5. This Court has heard Sri Kasa Jagan Mohan Reddy, learned Special Government Pleader representing the University. According to him, the writ petitioner is an adhoc employee and he was due to retire on 31.07.2023. Immediately after the interim order was passed in the W.P.No.18225 of 2023, he submits that a vacate stay petition

was already filed and the matter was listed on 31.07.2023 for hearing on that day but the hearing did not take place on that day. He also justifies the subsequent order dated 31.07.2023 on the ground that Sections 29 and 30 of the Universities Act would apply and that the University cannot under any circumstances, continue the petitioner beyond the date of his scheduled superannuation. He also submits that in view of the orders of the Division Bench passed in W.A.No.1033 of 2022 and batch, the order passed by the learned Single Judge is contrary to law. Therefore, he justifies the order dated 31.07.2023 and seeks for suspension.

6. In reply, Sri N. Ashwain Kumar, learned counsel for the respondent No.1 submits that he wishes to file counter affidavit. Apart from that, he also submits that certain other employees, who were superannuated on the same day have filed the writ petitions and in their cases, the writ appeals were not filed and the interim order is being continued. Lastly, he submits that the order dated 31.07.2023 is the clear violation of the interim order and the University authorities cannot ignore an order passed by the learned

Single Judge. Therefore, he submits that no interim or other relief should be granted to the petitioner.

7. Without going further into the merits of the order, this Court notices that the difficulty that is being expressed by the University is that they cannot continue the employee particularly a temporary employee, beyond 31.07.2023. In view of the statutory provisions mentioned above they are of the opinion that they are justified in giving the impugned order, despite the orders of the learned Single Judge. The other issues that are raised are left open for now. This court is of the opinion that the perceived difficulty of the University and its implications must be brought to the notice of the learned Single Judge. This Court has formed an opinion on the conduct of the University, but in view of the fact that the learned Single Judge also mentioned in the order that the action amounts to the contempt, this Court is not expressing any opinion on this issue.

8. Keeping in view the law on the subject and the limited power available to this Court to interfere in the appeals against the interlocutory orders, both the writ appeals are disposed of with a direction to the learned Single Judge to

hear both the writ petitions on a priority and decide the matters on merits, preferably within a period of one month from the date of receipt of a copy of this order. No costs.

As a sequel, Miscellaneous Applications, if any, pending shall also stand dismissed.

JUSTICE D.V.S.S.SOMAYAJULU

JUSTICE DUPPALA VENKATA RAMANA

Date: 08.08.2023

Note: CC by 09.08.2023

B/o.

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