



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

[3329]

THURSDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 15846/2021

Between:

1.U SADA LAKSHMI, UPPULURU SADA LAKSHMI, W/O B. SATYANARAYANA, AGED ABOUT BOYEARS, RETD. EMPLOYEE, D. NO. 64-8-10/2, SRI SURYA PARK VIEW, FLAT NO. 304, RAGHAVA NAGAR, PATAMATALANKA, VIJAYAWADA, KRISHNA DISTRICT.

...PETITIONER

AND

1.THE STATE OF AP, THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY(PANCHAYAT RAJ) DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT,
2.THE SUPERINTENDING ENGINEER, THE SUPERINTENDING ENGINEER, PANCHAYAT RAJ CIRCLE, MACHILIPATNAM. OPP TO PWD GROUND, BANDAR ROAD, VIJAYAWADA. KRISHNA DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of Writ of Mandamus, declaring the action of the respondents in not paying Pension and Pensionary benefits in pursuance of G.O.Ms. No. 212, dt. 22-04-1994 as illegal, arbitrary and in violation of the dicta laid down by the Honble Supreme Court of India in B. Srinivasulu Vs Nellore Municipal Corporation in Civil Appeal No. 6318/2015 on 17-08-2015 which is followed by the Division Bench of the Hon'ble High Court, at

Hyderabad in W.P.No. 33936/2011 and batch on 02-05-2018 and which is also followed by the Division Bench of Honble High Court of Andhra Pradesh at Amaravathi, in W.A. NO. 178/2021, dated 16-06-2021 and in violation of the Art. 14 and 16 of The Constitution of India and in violation of terms and conditions of G.O.Ms. No. 212, dt. 22-04-1994 of Finance and Planning Department of A.P., and consequently, direct the respondents to extend the benefits of G.O.Ms. No. 212, dt. 22-04-1994 of Finance and Planning Dept, of A.P., and as per the dicta laid down by the Hon'ble Supreme Court of India in Case of B. Srinivasulu Vs Nellore Municipal Corporation which was followed by the Division Bench of Hon'ble High Court of Judicature at Hyderabad in W.P. No. 33936/2011 and batch on 02-05-2018 and which was also followed by the Divison Bench of Hon'ble High Court of Andhra Pradesh in W.A. NO 178/2021, dated 16-06-2021 in order to determine the pension and pensioary benefits of the petitioner and pass

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Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased be pleased to direct the respondents to consider the case of the petitioner to extend the benefits of G.O.Ms. No. 212, dt. 22-04-1994 of Finance and Planning Dept, of A.P., in-pursuance of the dicta laid down by the Hon'ble Supreme Court of India in the Case of B. Srinivasulu Vs Nellore Municipal Corporation in Civil Appeal No. 6318/2015 on 17-08-2015 which was followed by the Division Bench of the Hon'ble High Court at Hyderabad in W.P.No. 33936/2011 and batch dated 02-05-2018 and which was also followed by the Divison Bench of Hon'ble High Court of Andhra Pradesh in W.A. No. 178/2021, dated 16-06-2021 in order to determine the pension and pensioary benefits of the petitioner pending disposal of the above writ petition and pass

Counsel for the Petitioner:

1.KUMARI G K V D

Counsel for the Respondent(S):

1.GP FOR SERVICES I

The Court made the following:

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 15846/2021

ORDER:

This writ petition is filed under Article 226 of the Constitution of the India seeking the following reliefs:-

“To Issue writ or order or direction particularly in the nature of writ of MANDAMUS by declaring the action of the respondents in not paying Pension and Pensionary benefits in pursuance of G.O.Ms.No.212, dated 22.04.1994 as illegal, arbitrary and in violation of the dicta laid down by the Hon'ble Supreme Court of India in B. Srinivasulu Vs Nellore Municipal Corporation in Civil Appeal No. 6318/2015 on 17.08.2015 which is followed by the Division Bench of the Hon'ble High Court, at Hyderabad in W.P.No.33936/2011 and batch on 02.05.2018 and which is also followed by the Division Bench of Hon'ble High Court of Andhra Pradesh at Amaravathi, in W.A.No.178/2021, dated 16.06.2021 and in violation of the Art. 14 and 16 of the Constitution of India and in violation of terms and conditions of G.O.Ms.No.212, dated 22.04.1994 of Finance and Planning Department of A.P., and consequently, direct the respondents to extend the benefits of G.O.Ms.No.212, dated 22.04.1994 of Finance and Planning Dept, of A.P., and as per the dicta laid down by the Hon'ble Supreme Court of India in Case of B. Srinivasulu Vs Nellore Municipal Corporation which was followed by the Division Bench of the Hon'ble High Court, at Hyderabad in W.P.No.33936/2011 and batch on 02.05.2018 and which was also followed by the Division Bench of Hon'ble High Court of Andhra Pradesh at Amaravathi, in W.A.No.178/2021, dated 16.06.2021 in order to determine the pension and pensioary benefits of the petitioner and pass such other order.”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. Learned counsel for the petitioner submits that the petitioner was joined in the service as Work Inspector/NMR vide

proceedings dated 06.05.1986. Later, the petitioner's services were regularized with effect from 17.09.1999 instead of 25.11.1993 on which date the petitioner completed five years of service as Work Inspector/NMR. He also submits that this issue is covered by the order of the Division Bench of Court in **Government of A.P. v. N.Venkaiah**¹. The operative portion of the said order is extracted hereunder:

“The learned Government Pleader would also point out that some of the O. As/writ petitions were filed with substantial delay after the regularization orders were passed, giving the benefit of G.O.Ms.No.212 with effect from the stipulated dates therein prospectively. She would assert that such settled matters should not be unsettled merely because the Supreme Court passed the subsequent order in B.SRINIVASULU. It may however be noticed that the trajectory of developments since the issuance of G.O.Ms.No.212, as set out hereinbefore, demonstrates that there was no consistency even in the orders passed by the Tribunal and this Court. Identically situated people were treated differently. The narration supra in relation to this very batch of cases demonstrates that the Tribunal gave the benefit of B. SRINIVASULU to some and denied it to others. In such a fluid and uncertain situation, an employee cannot be blamed for seeking relief even after lapse of some years as there was no clarity as to the legal position. As the Supreme Court has now

¹ 2018 (4) ALD 590 (DB)

settled the same by way of its decision in B. SRINIVASULU, employees who completed five years of service on or before 25.11.1993 and were already regularised in service with prospective effect cannot be found fault with for approaching this Court with some delay so as to seek the benefit of their past service in terms of G.O.Ms.No.212 at least for the limited purpose of their pension and pensionary benefits.

On the above analysis, the writ petitions are disposed of directing the authorities concerned to extend the benefit of B. SRINIVASULU to the employees in this batch of cases by reckoning their services from the date of completion of five years in service, on or before 25.11.1993, for the purposes of their pension and pensionary benefits. They shall however not be entitled to actual monetary benefits for the said period, in the form of arrears of pay or allowances.”

4. It is appropriate to take note of the directions passed by the learned Division Bench in the case by virtue of which the Court directed the authorities concerned to extend the benefit of the judgment of the apex Court in **B.Srinivasulu v. Nellore Municipal Corporation**², to the employees in the batch of cases by reckoning their services from the date of completion of five years in service, on or before 25.11.1993, for the purposes of their pension and pensionary benefits. It was also held that they shall however not be entitled to actual monetary benefits for the said period, in the form of

² Civil Appeal No.6318 of 2015, dated 17.8.2015

arrears of pay or allowances. The Government Pleader does not oppose the said finding.

4. Hence, in terms of the above judgment, there shall be a direction to the respondents to extend the said benefit to the petitioner by reckoning her service from the date of completion of five years on or before 25.11.1993, for the purposes of pension and pensionary benefits only.

5. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel miscellaneous application, pending, if any, shall also stand closed.

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