

APHC010296632013



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

[3457]

TUESDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 29443/2013

Between:

1.S. VENKATASWAMY,, S/O. S. VENKATA SUBBAIAH, AGED ABOUT 58 YEARS, OCC: RETIRED GR.II SANSKRIT PANDIT, G.V.S. ORIENTAL HIGH SCHOOL, SKR NAGAR, MADHAVARAM-I, SIDHOUT MANDAL, KADAPA DIST, R/O. D.NO.42/529-29, NGO COLONY, SANKARAPURAM POST, YSR KADAPA DIST.

...PETITIONER

AND

- 1.GOVERNMENT OF A P, REP. BY ITS PRINCIPAL SECRETARY, SCHOOL EDUCATION, SECRETARIAT HYDERABAD.
- 2.THE ACCOUNTANT GENERAL, A.P., AT HYDERABAD
- 3.THE DISTRICT EDUCATIONAL OFFICER, YSR KADAPA DISTRICT AT KADAPA.
- 4.THE DISTRICT TREASURY OFFICER, YSR KADAPA DISTRICT AT KADAPA.
- 5.THE SUB TREASURY OFFICER, YSR KADAPA DISTRICT AT SIDHOUT.
- 6.THE CORRESPONDENT, G.V.S. ORIENTAL HIGH SCHOOL, SKR NAGAR, MADHAVARAM-I, SIDHOUT MANDAL, KADAPA DIST.

...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 issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, A) to declare the action of the respondents in stepping down the petitioners pay in grade II from 1983 as per Act 1/2005 is illegal, arbitrary and violative of article 14,16, 21 and 300 A Constitution of India and consequently declare that the petitioner is entitled all pension and pensionary benefits basing on the last pay drawn i.e. Rs. 37,600/- B) to declare further that the action of the respondent authorities in recovering the amount of Rs. 3,86,618/- from the petitioner which were already and actually paid by Government itself in terms of G.O.Ms.No. 330 Edn. Dt. 10-8-1983 as being illegal, arbitrary and contrary to the Judgment reported in 2010(4) ALT 145 (FB) and consequently direct the respondent to refund the said recovered amount to the petitioner.

IA NO: 1 OF 2013(WPMP 36581 OF 2013)

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 to direct the respondent authorities to forthwith refund the entire amount of Rs. 3,86,618/- as per the Judgment reported in 2010 (4) ALT 145 (FB), which was recovered/withheld by the respondent authorities pending disposal of the main Writ Petition,

Counsel for the Petitioner:

1.A V V S BHUJANGA RAO

Counsel for the Respondent(S):

1.GP FOR FINANCE PLANNING

2.GP FOR SCHOOL EDUCATION

THE HONOURABLE SRI JUSTICE HARINATH.N**WRIT PETITION NO: 29443 of 2013****ORDER:**

1. The petitioner is challenging the action of the respondent authorities in sanctioning the pension and pensionary benefits by stepping down the pay of the petitioner from the year, 1983 and subsequent recovery of amounts.

2. The petitioner was appointed as Language Pandit Grade-II on 01.12.1978. It is stated that the petitioner possessed Grade-I qualifications from the date of his initial appointment in an aided post. The Government of Andhra Pradesh issued G.O.Ms.No.330, Education dated 10.08.1983, granting the benefit of Grade-I scale from 10.08.1983 to Grade-II Language Pandits who possessed Grade-I qualifications and were appointed prior to 12.03.1982.

3. The petitioner was also extended the benefit of G.O.Ms.No.330 and was paid Grade-I scale. The petitioner attained the age of superannuation on 31.03.2012. The petitioner was drawing an amount of Rs.37,600/- as on the date of his retirement. The benefit of the Grade-I scale issued in pursuance of G.O.Ms.No.330 was withdrawn by issuance of G.O.Ms.No.176, dated 22.12.2000. Aggrieved by the issuance of the said subsequent G.O., O.A.No.377 of 2001 and batch were filed before the Administrative Tribunal. The Administrative Tribunal upheld the issuance of G.O.Ms.No.176 by dismissing the batch of O.A's.

4. The employee subsequently filed Writ Petition No.26260 of 2012 and batch, and the Division Bench of this Court allowed the Writ Petitions, set aside the orders of the Tribunal, and also set aside G.O.Ms.No.176. The SLP preferred by the Government was dismissed on 27.07.2004. It is submitted that the Government introduced the Andhra Pradesh Language Pandits Grade-II (Regulation of Scale of Pay) Act, 2004.

5. The respondents have extended the Grade-I scale to the petitioner from 10.08.1993 onwards, and the said amount was utilized by the petitioner for meeting his family expenses. After a lapse of 22 years, the respondents, by referring to the Andhra Pradesh Language Pandits Grade-II (Regulation of Scale of Pay) Act, 2004, recovered the entire amount of Rs.3,86,618/- from the pensionary benefits of the petitioner.

6. The petitioner is challenging the said unilateral recovery from his pensionary benefits. It is also submitted that the respondents have stepped down the scale of the petitioner from Rs.37,600/- to Rs.32,350/- and computed the pensionary benefits by taking the last drawn pay as Rs.32,350/.

7. It is submitted that the petitioner cannot be found fault with for the introduction of G.O.Ms.No.330. The petitioner also cannot be found fault with for the action of the respondents in extending the Grade-I scale to the petitioner in pursuance of G.O.Ms.No.330. The action of respondents in invoking the Andhra Pradesh Language Pandits Grade-II (Regulation of Scale of Pay) Act, 2004 and making it applicable retrospectively has resulted in

recovery of substantial amounts from the pensionary benefits of the petitioner, apart from computing the pension by stepping down the basic pay.

8. The petitioner places reliance on the judgment passed in the matter of ***State Language Teachers Association and others vs. State of Andhra Pradesh***, whereby the constitutional validity of the Andhra Pradesh Language Pandits Grade-II (Regulation of Scale of Pay) Act, 2004 was considered. A Full Bench of this Court upheld the validity of the Act and, however, made it clear that the Act would operate prospectively. A further direction was issued to the respondents not to recover any amount already paid to any of the Language Pandits Grade-II who were given the benefit of the Grade-I scale of pay.

9. The learned Assistant Government Pleader appearing for the State submits that the teachers appointed prior to 1982 had no financial benefit even after rendering service for several years. As such, in order to ensure that they are adequately compensated monetarily on account of stagnation in promotions, G.O.Ms.No.330 was introduced. It is submitted that the said G.O. was withdrawn by issuance of G.O.Ms.No.176. It is also submitted that any review by this Court on this point after such a length of time would cause severe financial implications to the State exchequer.

10. Heard both sides and perused the record.

11. The judgment passed by a Full Bench of this Court in **State Language Teachers Association and others vs. State of Andhra Pradesh**, categorically held that the Andhra Pradesh Language Pandits Grade-II (Regulation of Scale of Pay) Act, 2004 would operate prospectively. A further direction was issued that no recoveries should be initiated by placing reliance on the Andhra Pradesh Language Pandits Grade-II (Regulation of Scale of Pay) Act, 2004.

12. The Hon'ble Supreme Court, in the matter of **Thomas Daniel vs. State of Kerala**¹, held that the employer was not justified in recovering excess payments or allowances made to the employee.

13. The Hon'ble Supreme Court, in the matter of **Jogeswar Sahoo and others vs. The District Judge, Cuttack and others**², relied on the judgment of the Hon'ble Supreme Court in **State of Punjab vs. Rafiq Masih**. The Hon'ble Supreme Court summarized the following situations wherein recoveries by employers were held to be impermissible in law:

“(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

¹ 2022 SCC Online SC page 536

² SLP(C) No.5918/2024

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

14. On the facts of the case, the petitioner was employed as Grade-II Language Pandit on 01.12.1978 and attained the age of superannuation on 31.03.2012. The Grade-I scale was extended from the year 1983 onwards after the introduction of G.O.Ms.No.330. In the said process, there was no intervention or influence on the part of the petitioner. Admittedly, the extension of the Grade-I scale to the petitioner was not on account of any misrepresentation by the petitioner.

15. In such a scenario, there is no justification for the action of the respondents in recovering an amount of Rs.3,86,618/- from the pensionary benefits of the petitioner. The same is highly irrational and arbitrary on the part of the State.

16. This Court, having found the recovery of the Grade-I scale paid to the petitioner from the year 1983 from the pensionary benefits to be illegal and arbitrary, holds that the respondents shall refund the amount of Rs.3,86,618/- together with interest at the rate of 12% per annum from the date of recovery.

17. Accordingly, the present writ petition is allowed by directing the respondents to refund the recovered amount of Rs.3,86,618/- /- together with interest at the rate of 12% per annum within a period of eight (08) weeks from the date of the receipt of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE HARINATH.N

Date:17.02.2026

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THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 29443 of 2013

Date: 17.02.2026

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