
(2002) 09 AP CK 0002

In the Andhra Pradesh High Court

Case No : Rev. WAMP. No. 1292 of 2002 and W.A. No. 16 of 2001

A.P. Social Welfare Residential Educational Institutions
Society and Another

APPELLANT

Vs

A.P. Social Welfare Residential Schools Teaching and Non-
Teaching Staff Association

RESPONDENT

Date of Decision : 11-09-2002

Acts Referred:

Citation : (2002) 5 ALD 442

Hon'ble Judges : S.R. Nayak, J; Dubagunta Subrahmanyam, J

Bench : Division Bench

Advocate : A.A.G, for the Appellant; G. Vidyasagar, for the Respondent

Final Decision : Allowed

Judgement

Dubagunga Subrahmanyam, J.—The review petition in Review WAMP.No.1292 of 2002 is filed against the Order dated 29.1.2001 in WAMP.No.29 of 2001 and WA.No.16 of 2001. The Writ Appeal is filed against the Order dated 25.6.1999 in W.P.No.2439 of 1995 passed by the learned single Judge of this Court.

2. Necessary facts leading to the filing of the review application and the writ appeal are as follows:

The Social Welfare Department of the State of Andhra Pradesh established A.P. Social Welfare Residential Schools to provide quality education to the talented children of Scheduled Castes coming mainly from the rural areas. It also established a state level society known as A.P. Social Welfare Residential Educational Institutions Society (in short "APSWREI") to supervise, control and manage the above social welfare educational institutions in the State. It is an autonomous body. The Education Department of the State of Andhra Pradesh is running some other residential educational institutions. It is known as A.P. Residential Educational Institutions Society (in short "APREI"). The above two Societies are permitting its teaching and non-teaching employees to draw scales

of pay as applicable to the State Government employees from time to time. The pay scales of the State Government employees are being revised by the State Government from time to time. The State Government revised the pay scales of its employees during the year 1986 known as "A.P. Revised Pay Scales, 1986". While fixing the pay scales of APREI teaching staff in the revised pay scales 1986, the teaching faculty of APREI were not given equivalent pay scales corresponding to the then existing pay scales of the teaching staff of APREI. Their employees association was making representations to the State Government from time to time to increase the pay scales and give them the scales in the revised pay scales, 1986 corresponding to the pay scales held by them when A.P. Revised Pay Scales, 1986 came into existence. Meanwhile the State Government again revised the pay scales of the State Government employees and those scales are known as "A.P. Revised Pay Scales, 1993". In 1993 pay scales also the teaching staff of APREI were not given the scales corresponding to the scales which they were getting by the time A.P. Revised Pay Scales, 1986 came into force. Subsequently they made another representation to restore the parity in the pay scales. After considering their request, the Government issued orders in G.O.Ms.No.92, Education (PROG.3) Department, dated 19.3.1994 revising the pay scales. In the Annexure to the said G.O.Ms.No.92, dated 19.3.1994, the corresponding revised pay scales, 1986 relating to the scales existing by the time the A.P. Revised Pay Scales, 1986 came into existence as well as Revised Pay Scales, 1993 for P.G. Teachers, T.G. Teachers and Special Teachers are mentioned. When Revised Pay Scales of 1986 were made applicable to the teaching staff of APSWREI, they were given higher scales than the scales of the corresponding teaching staff of APREI. After G.O.Ms.No.92 was issued making the teaching staff of APREI entitled to the revised pay scales of 1993, the Association of APSWREI made a representation to the Government requesting the State Government to give them the pay scales given to the teaching staff of APREI in G.O.Ms.No.92. The Government accepted the demand of APSWREI Employees Association. It issued an order in G.O.Ms.No.138, Social Welfare (K) Department, dated 12.9.1994 making applicable to the employees of APSWREI the scales given to the teaching and non-teaching staff of APREI Society in G.O.Ms.No.92. In pursuance of the above two G.Os., it is pleaded, a Circular dated 17.10.1994 was issued by 2nd respondent stating that initial fixation is to be made from the Revised Pay Scales, 1986 and to release monetary benefit from 1.4.1990 and fixation of the pay shall be done under FR 22(a)(1) read with FR 31(2). The Government in G.O.Ms.No.92 made it clear that the Revised Pay Scales, 1993, shall come into force with effect from 1.7.1992 notionally with monetary benefit from 1.4.1993 and the pay shall be fixed in accordance with the principle laid down in G.O(P) No.162, Finance, dated 20.5.1993 read with another G.O(P) No.18, Finance, dated 19.1.1994. The above two G.Os, namely, G.O(P) No.162 and G.O(P) No.18 relate to the Revised Pay Scales, 1993, granted by the State Government to its regular employees. Thereafter the Employees Association of APSWREI filed the writ petition in W.P.No.2439 of 1995 requesting this court to issue a writ of Mandamus declaring

the action of the respondents in not implementing the revision of pay scales, 1986, in respect of Post-Graduate Teachers, Trained Graduate Teachers and Special Teachers notionally with effect from 1.7.1986 as illegal, arbitrary and unjust and consequently to direct the respondents to fix the pay of the teaching staff, namely, Post-Graduate Teachers, Trained Graduate Teachers and Special Teachers in the scale of pay of Rs.1810-3230, Rs.1550-1986 and Rs.1150-2110 respectively notionally with effect from 1.7.1986 and thereafter release the physical monetary benefits from 1.4.1990 and for consequential fixation in the future pay revisions i.e., 1992 and thereafter. In their writ petition it is stated that there was no reduction in the pay scales of the employees of APSWREI at any time and as far as the employees of APREI are concerned, the Government reduced the pay scales of APREI employees during the pay revision of 1986, the Government restored parity through G.O.Ms.No.92 and while doing so, decided to continue old pay scales and accordingly ordered for notional fixation in the pay scales of 1986 with effect from 1.7.1992 and permitted to take the monetary benefits from 1.4.1990. It is further stated in their affidavit by the writ petitioner that since such a situation does not exist in the pay scales of the employees of APSWREI, the Government while issuing G.O.Ms.No.138 dated 12.9.1994 only ordered to maintain parity in between the pay scales of the two Societies and consequently sanctioned to the staff of APSWREI those pay scales which were allowed to the staff of APREI Society. It was further averred in the writ affidavit that since G.O.Ms.No.138 was to operate only prospectively according to the Government, it did not mention anything about the notional fixation or monetary benefit in the said G.O., as was done by the Government in the case of the employees of APREI Society. They pleaded that the Secretary of the 2nd respondent issued a Circular dated 17.10.1994 giving guidelines for fixation of the pay of the staff of APSWREI interpreting G.O.Ms.No.138 in a different way. They pleaded that the above guidelines are contrary to the intention of the Government in G.O.Ms.No.138, dated 12.9.1994. It is pleaded that as the benefits under G.O.Ms.No.138, dated 12.9.1994 are being released from prospective date, it is necessary that the notional fixation be done from the earlier date so that the seniors would get higher fixation basing on the pay drawn by them notionally from retrospective effect, otherwise it leads to serious anomalies, whereby the juniors and seniors would get the same scale even though the senior has put in a number of years. It is further stated in the affidavit that in G.O.Ms.No.92, dated 19.3.1994, the Government clarified that the teaching staff are entitled for 1986 scales and therefore there is no option left for the second respondent - Society to fix the pay scale by notional fixation with effect from 1.7.1986 and thereafter release the pay physically and actual monetary benefits from 1.4.1990. The above writ petition was opposed by the respondents. The learned single Judge by his order dated 25.6.1999 disposed of the writ petition with a direction to the respondents to undertake re-fixation of the pay scales of all the three categories of teachers whose pay scales are found equal to that of the pay scales of their juniors by duly following the rules of pay fixation which are laid down in the Fundamental Rules. The learned single Judge

also directed that in case of any anomaly being found on such re-fixation, the pay scales of such of those teachers shall be fixed notionally with effect from the date mentioned in G.O.Ms.No.162 dated 20.5.1993 and monetary benefits shall also be allowed with effect from the date mentioned in G.O.Ms.No.162.

3. Thereafter the writ petitioner filed a review petition in Review WPMP.No.22680 of 1999 before the same learned single Judge. The learned single Judge by his order dated 8.11.1999 reviewed his earlier order dated 25.6.1999 in the writ petition. In the order passed after review, the learned single Judge stated that the orders issued by the Government in G.O.Rt.No.814, Social Welfare(K) Department, dated 9.11.1994 was not filed along with the material papers in the writ petition and hence there was no occasion for the court to go through the said G.O., wherein it was clarified that G.O.Ms.No.138 should be read along with G.O.Ms.No.92 and if so read, the necessary implication would be that the benefits which are allowed in G.O.Ms.No.92 are deemed to have been extended to the staff of APSWREI Society also, in respect of whose benefit G.O.Ms.No.138 was issued. The learned single Judge held that the employees of APSWREI Society are also entitled to have their pay fixed on par with the employees working in the APREI Society with monetary benefit and notional fixation as was extended in the case of staff of APREI Society i.e., notional fixation from 1.7.1986 and monetary benefit from 1.4.1990 onwards.

4. The respondents felt aggrieved by the orders of the learned single Judge passed in the writ petition as well as in the review petition filed an appeal in Writ Appeal No.16 of 2001. There was delay in filing the above appeal. The petition to condone the delay was dismissed by this court by order dated 29.1.2001 in WAMP.No.29 of 2001. Consequently the writ appeal in W.A.No.16 of 2001 was dismissed by this court as barred by limitation. Thereafter the appellants filed Special Leave Petitions before the Supreme Court in SLP.No.10513-10514 of 2001 against the orders of this court dismissing the writ appeal as barred by limitation. By Order dated 16.7.2001 the Supreme Court dismissed the Special Leave Petitions by a non-speaking order. The Supreme Court mentioned in the order as " The Special Leave Petitions are dismissed".

5. After the dismissal of the Special Leave Petitions by the Apex Court, the appellants filed a review petition in the writ appeal in WAMP.No.1292 of 2002 before this court requesting this court to review/recall the order dated 29.1.2001 in W.A.No.16 of 2001 and also in WAMP.No.29 of 2001 and pass such other orders as may be just. As there was delay in filing the present review petition, the appellants filed another petition in WAMP.No.392 of 2002 requesting this court to condone the delay in filing the above review petition. This Court by order dated 5.4.2002 condoned the delay in filing the review petition. As a result, the review petition in WAMP.No.1292 of 2002 is before us for hearing. At the time of hearing of this review petition, the writ appeal in W.A.No.16 of 2001 was also heard on merits. We propose to dispose of the review petition as well as the writ appeal on merits by this common order.

6. It is already noticed that previously this court refused to condone the delay in filing the writ appeal, consequently the writ appeal was dismissed as barred by limitation and thereupon the Apex Court dismissed Special Leave Petitions filed by the State Government against the orders of this court. The question is whether at this stage the appellants in the writ appeal are entitled to file a review petition and seek review of the earlier orders of this court refusing to condone the delay in filing the writ appeal and consequently dismissing the writ appeal itself. In a decision in KUNHAYAMMED Vs. STATE OF KERALA (1) the Apex Court was pleased to hold that an order refusing Special Leave to appeal does not attract the doctrine of merger and the said order does not stand substituted in place of the order under challenge and all that it means is that the court was not inclined to exercise its discretion so as to allow the appeal being filed. Regarding maintainability of a review petition before the High Court after the rejection of Special Leave Petitions by the Apex Court, the Supreme Court was pleased to hold as follows:

" The prayer contained in the petition seeking leave to appeal to this Court was found devoid of any merits and hence dismissed. The order is a non-speaking and unreasoned order. All that can be spelled out is that the Court was not convinced of the need for exercising its appellate jurisdiction. The order of the High Court dated 17.12.1982 did not merge in the order dated 18.7.1983 passed by this court. So it is available to be reviewed by the High Court".

In view of the above decision of the Apex Court, it is very clear that the present review petition filed by the State before this court is maintainable in law.

(1) Kunhayammed and Others Vs. State of Kerala and Another,

7. The next issue to be considered is whether there are grounds to review the order passed by this court refusing to condone the delay in filing the writ appeal. In the order dated 29.1.2001 this court stated that there has been delay of five months for obtaining an order from the Government for preferring an appeal, which allegedly was granted on 24.4.2000, no explanation whatsoever was offered as to why this appeal could not be filed despite receipt of such an order of the Government till 11.1.2001. For that reason, the application for condonation of delay was dismissed by this court and consequently the appeal was also dismissed. This Court was of the opinion at that time that there was no explanation for the delay of five months in filing the writ appeal even after obtaining the permission of the Government to file the appeal. In the present review petition, the Government had pleaded that the writ petitioners committed fraud in obtaining the orders from the learned single Judge and also there was collusion between some of the officers of the Government with the writ petitioner. It is specifically pleaded in para 5 of the affidavit that after the judgment of the learned single Judge was rendered, on receiving certified copy of the judgment, Government decided to file a writ appeal and instructed the Standing Counsel by letter dated 7.8.2000 and for reasons which are not clear but which raise a serious suspicion of fraudulent conduct, the appeal was not

filed till January, 2001. It is further specifically pleaded in the affidavit that there is reason to believe that this delay was caused deliberately and an investigation has been commenced to determine who is responsible for not giving proper instructions to counsel and for inexplicable delay in preferring the writ appeal and action is contemplated against the culprits. Though in the review petition the writ petitioner filed an elaborate counter, there is no denial of the above crucial grounds mentioned in the present review petition. It is also further pleaded in the affidavit that the Government subsequently learnt that even at the stage of preferring Special Leave Petitions before the Apex Court, there was a collusion between the writ petitioner and some of the employees of the Government and there was a delay in filing the Special Leave Petitions also before the Supreme Court. The learned single Judge proceeded in his order on the basis that the teaching faculty of APREI are permitted under G.O.Ms.No.92 to fix notionally their scales from 1986 onwards and to draw monetary benefits from 1.4.1990 onwards. A copy of a letter of APREI is placed on record now showing that such a benefit was not given to the members of the teaching faculty of APREI. In the course of the further discussion in this judgment material showing that there was collusion between some of the employees of the Government with the writ petitioner's Association will be considered. Material averments in the review petition affidavit explaining how the delay occurred in filing the writ appeal and about fraud and collusion are not controverted in the counter affidavit filed in the review petition by the writ petitioner. Even otherwise we see no good reasons to disbelieve those grounds. We accept the same. We find that in the interests of justice it is necessary to review the order already passed in the delay condonation petition filed by the appellants in the writ appeal. Therefore, we condone the delay in filing the writ appeal and allow the petition in WAMP.No.29 of 2001. Consequently the order dismissing the writ appeal as barred by limitation is also reviewed and the said order is set aside and the writ appeal is restored to file for disposal on merits in accordance with law.

8. It is the contention of the writ petitioner that under G.O.Ms.No.92, dated 19.3.1994, the teaching faculty of APREI are permitted to fix their salary notionally with effect from 1.7.1986 and to draw monetary benefits with effect from 1.4.1990 and while extending the benefit of those pay scales to the teaching faculty of APSWREI under G.O.Ms.No.138, dated 12.9.1994, they were not permitted to fix their salaries notionally with effect from 1.7.1986 and draw monetary benefits with effect from 1.4.1990. According to the writ petitioner when G.O.Ms.No.138 was issued to allow parity of pay scales between the staff working in APREI and APSWREI, the denial of the benefit to fix notionally the salaries with effect from 1.7.1986 and draw monetary benefits with effect from 1.4.1990 to the staff of APSWREI is arbitrary, illegal and liable to be set aside. The learned single Judge was of the opinion that under G.O.Ms.No.92, dated 19.3.1994, the teaching faculty of APREI are permitted to fix the salaries notionally from 1.7.1986 and draw monetary benefits with effect from 1.4.1990 and similar facility was not granted to the teaching faculty of APSWREI under

G.O.Ms.No.92. While passing the order in the writ petition after allowing the review petition filed by the writ petitioner, the learned single Judge stated that when he passed the order originally in the writ petition on 25.6.1999, the copy of G.O.Ms.No.814 dated 9.11.1994 was not placed before him and after perusing the said Government Order, the learned single Judge opined that the teaching faculty of APSWREI are also to be given benefits of fixing their salaries notionally with effect from 1.7.1986 and draw monetary benefits with effect from 1.4.1990. For those reasons, the learned single Judge allowed the writ petition. The opinion of the learned single Judge that the teaching staff of APREI are given the benefit of fixing their salaries notionally from 1.7.1986 and draw the monetary benefits with effect from 1.4.1990 is not correct in our considered opinion.

9. It becomes necessary to extract in entirety G.O.Ms.No. 92, dated 19.3.1994 as well as G.O.Rt.No.814, dated 9.11.1994 in this judgment. They read as follows:

" Government of Andhra Pradesh ABSTRACT.

APREIS, Hyderabad - Revision of Pay Scales of the Teachers and Lecturers of the APREIS - Orders - Issued.

EDUCATION (PROG.3) DEPARTMENT.

G.O.Ms.No.92. Dated: 19.03.1994. Read the following:-

1. G.O.(P).No.162, Finance, dated 20.05.1993.
2. G.O.(P).No.18, Finance, dated 19.01.1994.
3. From the Secretary, APREIS, Hyderabad, Rc.No.3485/C1-2/90-3, dated 21.01.1994 and 22.02.1994.

.....

ORDER

The APREI Teachers" Association have been demanding restoration of parity in the pay scales that was existing at the time of starting Residential Institutions. In the reference 3rd read above, the Secretary, APREIS, has furnished proposals for extension of the revised pay scales, 1993, to the teaching staff of APREIS.

The Government have examined the matter in detail and after careful consideration hereby order that the pay scales of the teaching staff of APREIS be revised as indicated in the Annexure to the order. The Pay scales indicated in the Column (4) of the Annexure shall come into force with monetary benefit from 01.04.1990 and fixation of the pay shall be done under F.R.22(a)(1) read with F.R. 31(2) based on the pay drawn in the existing scale which are indicated in Column (3).The revised pay scales, 1993 indicated in column (5) shall come into force from 01.07.1992 be notionally with monetary benefit from 01.04.1993 and the pay shall be fixed in accordance with the principle laid down in G.O. first read with 2nd read with above.

The Secretary, APREIS is requested to obtain ratification of the Standing Committee for Administrative and Financial matters in this regard.

All orders in connection with the Revised Pay Scales and related matters shall apply to the teachers of APREIS.

This order issues with the concurrence of Finance and Planning Department vide their U.O.No.437/AFS/(SH)/94, dated 19.03.1994.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Sd/- J.S.SARMA Secretary to Government"

" Government of Andhra Pradesh ABSTRACT.

APSWREIS - Hyderabad - Adoption of revised Pay scales of 1993 - Applicability of scales of pay to teaching and non-teaching staff of APSW Residential Schools and Junior colleges on par with staff of A.P. Residential Educational Institutions Society - Further clarification - Issued.

SOCIAL WELFARE (K) DEPARTMENT.

G.O.Rt.No.814 Dated: 09.11.1994. Read the following:

1. G.O.Ms.No.138, SW (K) Dept., dt. 12.09.94.
2. G.O.Ms.No.92, Education (Programmes) Dept., Dt. 19.3.94.
3. G.O.P.No.18, Finance, dt. 19.01.94.
4. Lr.No.H2/5281/93, dt. 17.10.94 from the Secretary, APSWREIS.

.....

ORDER

Orders were issued in the reference 1st read above for implementation of the revised pay scales of 1993 for the teaching and non-teaching staff of the A.LP. Social Welfare Residential Educational Institutions Society on par with the teaching and non-teaching staff of A.P. Residential Educational Institutions Society. The Secretary, A.P. Social Welfare Residential Educational Institutions Society vide reference 4th read above has sought for clarification regarding the applicability of pay scales on par with the staff of A.P. Residential Educational Institutions Society. The orders issued by the Education Department in the reference 2nd read above in respect of A.P. Residential Educational Institutions Society have clearly indicated that the pay of the employees will be first stepped in 1986 pay scales under the provisions of FR 22(a)(1) read with FR 31(2) with monetary benefit from 01.04.1990 and thereafter the corresponding pay scale for RPS 1993 has to be allowed with notional fixation from 01.07.1992 and monetary benefit with effect from 01.04.1993 and that the pay fixations for 1993 pay scales will be governed by the orders issued vide reference 3rd read above. The Secretary of the Society has indicated that since these provisions have not

been clearly indicated in G.O.Ms.No.138 SW (K) Dept., dt. 12.09.94. The Director, Local Fund is refusing to take the verification of pay fixation statements and has therefore sought for necessary clarification and authorization to pre check the pay fixation statements under RPS 1993 from the Government.

2.The matter has been reexamined and it is hereby clarified that while implementing the revised pay scales of 1993 for the employees of the A.P. Social Welfare Residential Educational Institutions Society, the orders issued in G.O.Ms.No.138, dt. 12.09.94 of Social Welfare Department should be read along with the orders issued by the Education Department in respect of A.P. Residential Institutions Society vide G.O.Ms.No.92, Edn. Dept., dt. 19.03.1994 wherein it was ordered that the pay scales will be first raised to those indicated in column 4 and then re-fixed in the corresponding 1993 pay scales as detailed in Column 5. Since both the Societies fare on the same footing hence the same dispensation in the matter of pay scale is to be given to the employees of both the Societies. The Director, Local Fund is authorized to Pre-audit the pay fixation statements arising under RPS 1993.

3.This order is issued with the concurrence of Finance and Planning Department vide their U.O. No.1772/AFS (SM)/94, dt. 09.11.1994.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH).

Sd/- JOINT SECRETARY TO GOVERNMENT"

For the sake of emphasis, the relevant portions in the above G.Os have been underlined by us. In G.O.Rt.No.814 it is stated that the orders issued in G.O.Ms.No.92 have clearly indicated that the pay of the employees will be first stepped up in 1986pay scales under the provisions of FR 22(a)(1) read with FR 32(2) with monetary benefit from 1.4.1990. Therefore, the officer who drafted G.O.Rt.No.814 such an order was issued in G.O.Ms.No.92. Absolutely there is no such reference in G.O.Ms.No.92, dated 19.3.1994 at all to fix the salaries of APREI employees for notional fixation of their pay scales in 1986 pay scales. Therefore, some benefits which are not given in G.O.Ms.No.92 dated 19.03.1994 are stated as though given in G.O.Rt.No.814 dated 9.11.1994. Keeping in view this factual position, we have observed supra that there is material on record to show that there is a fraud played by some of the employees of the Government while issuing G.O.Rt.No.814, dated 09.11.1994. G.O.Rt.No.814, dated 09.11.1994 was issued by the Social Welfare Department which is running APSWREI Institutions. Perhaps, as rightly pointed out by the learned Advocate-General, there is every scope to presume that there is a collusion between some of the Government employees working in the Social Welfare Department and the members of the writ petitioner association while issuing the said G.O.Rt.No.814, dated 09.11.1994.

10. A letter in Rc.No.318/C1-3/C3-2/94-2002, dated 19.1.2002 written by the Secretary of APREI Society to the Secretary of APSWREI Society clearly shows that APREI Society has not allowed notional fixation of revised pay scales of 1986

with effect from 1.7.1986. Therefore, the writ petitioner - Association is now claiming benefits, which are not given to APSWREI employees as though those benefits were given to APREI employees. As the basis on which the learned single Judge granted the relief to the writ petitioner falls to the ground on a comparative study of G.O.Ms.No.92 as well as G.O.Rt.No.814 and the latest letter written by the Secretary of APREI, it is clear that the order passed by the learned single Judge is liable to be set aside.

11. If the writ petition is allowed and the members of the writ petitioner - Association are permitted to fix their salaries notionally with effect from 1.7.1986 and draw monetary benefits with effect from 1.4.1990 on the presumption that such a benefit was given to the teaching faculty of APREI, naturally the staff working in APREI will rush to the court to seek a direction to the Government to fix their salaries also with effect from 1.7.1986 and monetary benefits with effect from 1.4.1990. The Court cannot refuse such a relief to them as according to the interpretation of the court itself such a facility was given to the members of APREI in G.O.Ms.No.92. We are, therefore, satisfied that if the order passed in the writ petition is not set aside, it is likely to lead to further financial burden on the Government which it did not intend while issuing the G.O.Ms.No.92, dated 19.3.1994.

12. In the review affidavit it is indicated that the government is probing into the matter regarding the fraud and collusion between its Standing Counsel and some government employees and members of the writ petitioner - Association. We hope and trust that the government will sincerely probe into the matter and take appropriate action against the guilty persons as expeditiously as possible so that such incident may not recur again in some other departments of the Government.

13. In the result, we allow the review petition in Rev.WAMP.No.1292 of 2002 and set aside the earlier order dated 29.1.2001 in WAMP.No.29 of 2001 and WA.No.16 of 2001. We allow Writ Appeal and set aside the order of the learned single Judge in W.P.No.2439 of 1995. We dismiss the said writ petition.

14. In the circumstances of this appeal, we direct both the parties to bear their own costs.