
(1992) 03 AP CK 0060

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20046 of 1987

J. Narasimha Murthy

APPELLANT

Vs

District Treasury Officer and Others

RESPONDENT

Date of Decision : 04-03-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 2 ALT 428

Hon'ble Judges : B. Subhashan Reddy, J

Bench : Single Bench

Advocate : B.V. Subbaiah, for the Appellant; G.P. for Finance and Planning, for the Respondent

Final Decision : Allowed

Judgement

B. Subhashan Reddy, J.—This writ petition is filed claiming issue of writ of Mandamus directing the respondents to pay the salary to the petitioner as per the revised scales of pay effected during the years 1978 and 1986 and as contained in G.O.Ms. No. 288, Finance & Planning dt.17-11-1986. The case of the petitioner is that he was a Judicial Officer of the rank of District Judge, Grade-II but nevertheless he held the post of Chairman, Industrial Tribunal, Guntur and later as Chairman, Industrial Tribunal, Visakhapatnam for the period from 27-4-83 till he retired on 30-9-87. It is pertinent to mention that the scales of pay of a District Judge of Grade-II Category is less than that of District Judge, Grade-I. It may be true that the said distinction in the scales of pay is maintained when the respective officers discharged the functions as District Judges Grade-I and Grade-II respectively. Now the question for consideration is whether the same scales of pay be payable to Grade-II District Judges having regard to their designation even though they work and discharge the functions of the rank of Chairman, Industrial Tribunal. In so far as the Chairman, Industrial Tribunal is concerned, the scales of pay are specifically fixed and it was Rs. 2,500/- to Rs. 2,750/- P.M. under the revised pay scales of 1978 and Rs. 5,000/-

to Rs. 6,200/- P.M. as per revised pay scales of the year 1986 and as contained in G.O.Ms. No. 288 Finance & Planning dt.17-11-86. It is also specifically mentioned that G.O.Ms. No. 286 dt. 17-11 86 is made applicable from 1-7-86. The contention of the petitioner is that even though he is eligible for the scales of pay of Rs. 2,500/- to Rs. 2,750/-per month for the period from 27-4-83 to 30-6-87 and Rs. 5,000/- to Rs. 6,200/-P.M. for the period from 1-7-86 to 30-9-87, he was not paid the same under the misconception that irrespective of the fact that he discharged the functions of the Chairman, Industrial Tribunal both at Guntur and Visakhapatnam he was entitled only for the scales of pay of that of District Judge, Grade-II. I see considerable force in the argument advanced by Mr. B.V. Subbaiah, the learned counsel for the petitioner that it is not the designation which counts but it is the post which is held by the incumbent and viewing so the petitioner who held and discharged the post of Chairman, Industrial Tribunal, Guntur and later at Visakhapatnam ought to have been paid the pay scales at the said posts of the Chairman, Industrial Tribunal which were on the higher shute than that of District Judge, Grade-II. He also relied upon a judgment reported by my learned brother Justice Upendralal Waghray in W.P No. 8/84/88. While rendering the judgment dated 8-12-89 in the said writ petition the learned judge held that the criteria of payment of scales of pay is dependent upon the post held by the incumbent and not the designation and directed the payment of scales of pay attached to the post of Chairman, Industrial Tribunal. I am in respectful agreement with the judgment rendered by my learned brother. As the petitioner was admittedly working as the Chairman, Industrial Tribunal, Guntur for the period from 27-4-83 to 14-2-86 and later till 30-9-87 as Chairman, Industrial Tribunal, Visakhapatnam and as the scales of pay attached to the said post was Rs. 2,500/- to Rs. 2,750/- p.m. till 30-6-86 and at Rs. 5,000/- to Rs. 6,200/- per month from 1-7-86 onwards, the petitioner shall be entitled to be paid the difference of amount basing on the pay scales of Rs. 2,500/- to Rs. 2,750/- per month for the period from 27-4-83 to 30-6-86 and Rs. 5,000/- to Rs. 6,200/- per month for the period from 1-7-86 to 30-9-87. The payment of this difference of amount shall be made by the respondents within one month from the date of receipt of this order.

2. The writ petition is allowed accordingly. No costs. Advocate's fee Rs. 250/-.