

THE HON'BLE SRI JUSTICE N.R.L.NAGESWARA RAO

A.S.NO.2110 OF 1998

JUDGMENT:-

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The appeal is filed against the judgment in O.S.No.162 of 1988 on the file of the Court of Additional Senior Civil Judge, Anantapur.

The defendant No.2 is the appellant. The suit one was filed for recovery of Rs.55,370-69 paise which was said to be amount, the plaintiff is entitled because of the fixation of the scales for people with additional educational qualifications. The plaintiff is said to be L.T.Assistant in Kasturibai Municipal Girls High School of Anantapur and challenging the policy of the Government to give separate scales he along with others filed R.P.No.808 of 1982 before the Administrative Tribunal and the R.P was allowed and subsequently in spite of repeated demands, the orders were not implemented and therefore the suit was filed.

The defendant has taken a plea admitting the orders passed by the Administrative Tribunal but has taken shelter under Ex.B-4 contending that the Government has asked the matter to keep in abeyance of G.O of fixing of the salaries with other categories of B.Ed Teachers.

After considering the evidence on record, the learned Senior Civil Judge decreed the suit of the plaintiff.

The appellant herein contends that the order in R.P before the Administrative Tribunal does not confer any right. Evidently, the plaintiff has claimed re-fixation of the salary on the ground of acquiring B.Ed qualification and it was also admitted by the defendant No.2 that the person who has got a B.Ed degree will be entitled to the salary and consequently the orders were passed by the Administrative Tribunal and the Government also under Ex.B-2 has directed the defendant No.2 to implement the order. As can be seen from the record and the judgment of the lower court the scales of pay were implemented in other Municipalities and supernumerary posts were created and the lower court relied upon Ex.A-4 decreed the suit. There was a dispute as to whether the benefit of G.O issued in 1967 with regard to fixation of the salaries will apply to Teachers working otherwise than in the Science, Mathematics

and in the decision reported in ***P.Tulsi Das and Others Vs. Government of A.P. and Others*** ([\[1\]](#)) it was held that no discrimination can be made. Therefore, in this case, evidently the claim of the plaintiff has been adjudged by Administrative Tribunal and the defendant No.2 is not denying the eligibility of the plaintiff for recovery of the said amount and only plea is that the amount has to be sanctioned by the Government. Evidently, it is a matter of correspondence between the Municipality and the Government and in fact the Government is also a party in the suit and therefore in view of the orders of the Administrative Tribunal and also in view of the judgment of the Supreme Court referred above, the appellant–Municipality cannot avoid its liability and there are no merits in this appeal and the Appeal Suit is liable to be dismissed.

Accordingly, the Appeal Suit is dismissed with costs.

N.R.L. NĀGESWARA RĀO,J

07-09-2011
TSNR

[\[1\]](#) (2003) 1 SCC 364