

CASE NO.:
Appeal (civil) 5588 1993

PETITIONER:
STATE OF ANDHRA PRADESH

Vs.

RESPONDENT:
G.RAMAKISHAN & ORS.

DATE OF JUDGMENT: 08/12/2000

BENCH:
D.P.Mohapatro, S.V.Patil

JUDGMENT:

L.....I.....T.....T.....T.....T.....T.....T...J

J U D G M E N T

D.P. MOHAPATRA, J.

The respondents herein, who were Post- Graduate students of the Andhra Pradesh Agricultural University, filed a writ petition (Writ Petition No.16050 of 1991) against the State of Andhra Pradesh, represented by the Secretary, Food and Agriculture Department (Agrl.III), and the Andhra Pradesh Agricultural University, represented by the Registrar, challenging the Government Order i.e. G.O.Ms.No.742 dated 3rd December, 1990, in which the date from which they are entitled to stipend at the enhanced rate was specified and sought a direction to the respondents to pay the enhanced rate of stipend to them from 1st October, 1989 as in the case of Post-Graduate students of Medical Colleges in the State. It is the case of the writ petitioners that prior to the issue of the afore-mentioned Government Order, Post-Graduate students of the Agricultural University were receiving stipend at the rates of Rs.1,000/- per month during the first year, Rs.1,100/- per month during the second year and Rs.1,200/- per month in the third year, same as in the case of the Post-Graduate students of Medical Colleges. By the Government Order, G.O.Ms.No.655, Health, Medical and Family Welfare (E-II) Department dated 26th December, 1989, considering the representation made by the Andhra Pradesh Junior Doctors Association, the rates of stipend were enhanced to Rs.1,500/- per month for first year students, Rs.1,900/- per month for second year students and Rs.2,000/- per month for third year students with a direction that the order of enhancement was to take effect from 1st October, 1989. A similar enhancement of the rate of stipend was made by the G.O.Ms.No.742, Food and Agriculture (Agrl.III) Department, for the Post-Graduate students of the Agricultural University but the order was given effect from 3rd December, 1990. The case of the writ petitioners was that the State Government had always treated the Post-Graduate students of the Agricultural University at

par with the Post- Graduate students of Medical Colleges in the matter of stipend and there was no rational basis to make a difference regarding the effective date from which the enhanced rates of stipend will be paid to the Post Graduate students of the Agricultural University on this occasion. The respondents in the writ petition, denying the claim of the writ petitioners, contended inter alia that it is not correct to assume that the State Government was all along treating the Post-Graduate students of the Agricultural University at par with the Post-Graduate students of Medical Colleges simply because the rates of stipend paid to the two groups of Post-Graduate students happened to be the same. According to the respondents, there was no comparison between the writ petitioners and the Post- Graduate students of Medical Colleges since the nature of studies, research work and practical duty done by them are not similar. It was further contended on behalf of the respondents in the writ petition that the writ petitioners represented their case to the State Government for enhancement of the rate of stipend and the State Government, after due consideration of the case of the petitioners and the Post-Graduate students of Medical Colleges, passed the order enhancing the rate of stipend with effect from different dates. A single Judge of the Andhra Pradesh High Court, vide judgment dated 28th April, 1992, allowed the writ petition granting the relief sought. The learned Judge observed : It is very vaguely stated in the counter that nothing prevents the petitioners to make a representation to the Government. That is not a valid answer. No intelligible differentia has been pointed out by the 1st respondent to discriminate the petitioners from that of the medical post-graduates. As such, the action of the 1st respondent in depriving the petitioners of the increased stipend amounts on par with medical post-graduates with effect from 1-10-1989 results in invidious discrimination infracting fundamental right of equality before law and equal protection of laws enshrined under Article 14 of Indian Constitution.

Being aggrieved by the judgment, the Government of Andhra Pradesh filed an appeal (W.A.S.R.No.29437 of 1993) challenging the same. A Division Bench of the High Court, by the judgment dated 7th July, 1993, dismissed the appeal on the ground of being grossly barred by time. The Division Bench of the High Court, on perusal of the condonation of delay petition (W.A.M.P.No.815 of 1993) filed by the appellant, held The facts referred to above clearly establish that no sufficient cause is made out for condoning the inordinate delay of 365 days in filing the appeal. Therefore, the petition is dismissed. The said order is under challenge in this appeal filed by the State of Andhra Pradesh. The respondents have not appeared despite service of notice on them. We have heard learned counsel for the appellant. We have also perused the judgment of the learned single Judge, the judgment passed by the Division Bench and the other relevant records included in the paper book. It is our considered view that on the pleadings of the parties, the learned single Judge rightly came to the conclusion that the State Government failed to show that there was any reasonable basis or intelligible differentia for giving effect to the enhanced rates of stipend for the Post-Graduate students of the Agricultural University from a date different from the effective date of the Post- Graduate students of the Medical Colleges, particularly when it was the specific case of the writ petitioners that the State

Government had all along maintained parity in the matter of stipend paid to the Post-Graduate students of both the institutions. On this occasion also regarding the rates of stipend payable to Post-Graduate students in the two institutions was maintained. However, a differentiation was made in so far as the date with effect from which the benefit of the enhanced rates will be available; while in case of Post-Graduate students of Medical Colleges, the benefit was extended with effect from an anterior date in the case of Post-Graduate students of the Agricultural University, the benefit was extended from a date subsequent thereto. This departure from the parity in the matter between the two groups of Post-Graduate students, which had admittedly been maintained all along, was assailed as arbitrary and discriminatory. When the action of the Government was challenged on the ground of arbitrariness and discrimination it was for the Government to plead justification for fixing the two different dates in the matter. It neither stated in the pleadings any reasonable or rational basis for giving effect to the enhanced rate of stipend with effect from different dates nor did it place any material before the Court in that regard. For this purpose it is of no relevance that courses of studies of the Post-Graduate students in the two institutions and the nature of practical duty done by them are different, for the reason that the matter under challenge related to the date with effect from which the enhanced stipend is to be paid to Post-Graduate students of Agricultural University. In such circumstance the learned single Judge cannot be faulted for having taken the view that the action of the State Government in the matter was not supported by any rational basis or intelligible differentia. The Division Bench, in the facts and circumstances of the case, rightly dismissed the appeal filed by the appellant herein. In the result, the appeal being devoid of merit, is dismissed with costs.