

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 717 OF 2015

ORDER:

The petitioner, who is currently functioning as a Principal on Full Additional Charge (FAC) basis at the Andhra Pradesh Tribal Welfare Residential School (Girls), K.V. Palli, Chittoor District, challenges the correctness of the order passed by the Director of Tribal Welfare and Secretary, Gurukulam Society, Hyderabad on 20.01.2015 placing the 3rd respondent as Principal (FAC) in his place and then repatriating him back to the residential school for girls at Tanakallu in Anantapur District.

Heard Sri N. Subba Rao, learned counsel for the petitioner. The learned counsel would contend that the spirit behind the Presidential Order is followed by the Gurukulam Society in the matter of maintaining seniority amongst the employees and for consideration of their cases for promotion, etcetera. On 31.05.2014, when nine new schools have been sanctioned by the Gurukulam, the same Secretary of the Society has considered the cases of the senior-most post-graduate teachers to be posted as Principals on FAC basis. The petitioner, who was working as a post-graduate teacher in biological sciences at the residential school (Girls), Tanakallu in Anantapur District, has been found to be the senior-most post-graduate teacher in the unit and consequently, he has been appointed as the Principal on FAC basis for the school established at K.V. Palli in Chittoor District. Therefore, it is now improper for the respondents to treat the petitioner as not the senior-most post-graduate teacher available in the unit of appointment. Sri Subba Rao, learned counsel would further contend that there was another post-graduate teacher, namely Sri C.M. Subhashinamma, who was also posted as a Principal (FAC) at the residential school (Girls) at B.N. Kandriga, Chittoor District. It is the assertion of the petitioner that Smt. Subhashinamma is junior to him. It is therefore, contended that even if the 3rd respondent, who has now

been posted in the place of the petitioner as the Principal (FAC), is considered as senior to the petitioner, since one other junior than the petitioner, namely Smt. Subhashinamma is being continued as the Principal (FAC), it is not the petitioner, who should be shifted out of the post of Principal (FAC). In this backdrop, the learned counsel for the petitioner would further contend that if an opportunity is provided to the writ petitioner before the impugned order is passed replacing him, he would have demonstrated to the satisfaction of the 2nd respondent that he is senior to not only the 3rd respondent herein but even Smt. Subhashinamma and consequently, there would not have been any necessity for the impugned order to have been passed on 20.01.2015 requiring replacement and repatriation of the petitioner to Anantapur District as a post-graduate teacher.

Placing an employee on FAC basis does not normally involve any promotion. In administrative parlance, FAC arrangements are mostly made by way of local arrangement, but however, to follow the principle of making the senior-most employees to hold a higher post, even if the same is some kind of a local arrangement pending finalization of regular filling-up of such vacancies by adopting the principle of seniority, the grievances of the employees that their juniors are made to hold the higher posts can be obviated. It is in that backdrop, for the two schools that were sanctioned to Chittoor now, two people have been chosen to be placed in FAC of the post of Principals. Without there being a Principal for a new school, there will be any number of administrative problems and inconvenience that would be faced in operationalising such an institute. However, from the impugned order, I gather that the 3rd respondent appears to have submitted a representation on 21.06.2014 pointing out that he is senior to the petitioner herein in the cadre of post-graduate teachers. Obviously, after examining the said representation of the 3rd respondent, the impugned order replacing the petitioner with him has

been passed by the 2nd respondent. There is no material available on record of this Writ Petition for me to gather or infer relative seniority between the petitioner on the one hand and the 3rd respondent and also Smt. Subhashinamma on the other. It is therefore, a case where the petitioner ought to have taken up the matter with the 2nd respondent and satisfy it that he cannot be replaced assuming that he is not the senior-most post-graduate teacher available in the unit of appointment. Further, the principles of natural justice can be invoked even while an administrative order is passed, provided such an order visits the person concerned with any evil or civil consequences. Functioning as a FAC Principal of an institution is more in the nature of an *ad hoc* arrangement pending finalization of filling-up such a post on regular basis. It does not confer any right upon any individual to continue to function as a Principal. Therefore, in my opinion, applicability of the principles of natural justice is not warranted.

However, liberty is always preserved to the petitioner to take up the matter by way of a representation with the 2nd respondent and demonstrate as to how he is entitled to be continued as a Principal on FAC basis, in preference either to the 3rd respondent or for that matter, any other candidate. I am confident that as and when any such representation is submitted to the 2nd respondent, appropriate attention would be spared and the grievance of the petitioner would be redressed at the earliest.

It is time to realize that as and when new institutions are sought to be established for the purpose of promoting the cause of education amongst the socially, economically and educationally backward segments of the society, such as Scheduled Tribes, the Principals and other teachers should be appointed as far as possible, on regular basis, instead of continuing the uncertainty for over a long period of time. The new schools have been sanctioned during the academic session 2014-15 and in fact, the said academic session is almost

drawing to a close by now. Therefore, steps should have been taken to fill-up the posts of Principals, on regular basis. Regular incumbent will try to dedicate his services for establishing good and appropriate practices and also concentrate his energies in efficiently organizing the institution and running it for achieving the objective for which it is established, in quick time.

With this, the Writ Petition stands disposed of at the admission stage. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

22nd January 2015

Issue CC in three days.
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