

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.6990 of 2015

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard learned Government Pleader for Services and Sri B.V.Ram Naresh Kumar, learned counsel for the respondent-applicant and, with their consent, the writ petition is disposed of at the stage of admission.

The present writ petition is filed aggrieved by the order passed by the A.P. Administrative Tribunal in O.A.No.6516 of 2014 dated 29.12.2014. The said O.A. was filed by the respondent-applicant questioning the action of the petitioners herein in not renewing her services, as a contract lecturer in Zone IV as illegal, arbitrary, discriminatory and in violation of Articles 14 and 16 of the Constitution of India. She sought a consequential direction to renew her services as contract lecturer in Botany Department, and for her retention in Government Degree College for Men at Kadapa.

In the order under challenge in this writ petition, the Tribunal has recorded the finding that there was no adequate strength of students in Botany in Government Degree College for Men in Kadapa; so was the case in the entire Zone IV as per the report submitted by the Regional Joint Director, Kadapa; the Government guidelines, issued in G.O.Ms.No.285, made it clear that, if there was no adequate strength in one college, the contract lecturer should be accommodated in another college; there is no adequate strength in Botany Subject in the entire zone; and, therefore, the action of the petitioners herein in not extending her contract during the academic year 2014-15 could not be found fault with.

Having so held, the Tribunal proceeded to hold that, since the respondent-applicant had an experience of six years and was highly qualified, the petitioners herein should be directed to consider her case in the next academic year, as the petitioners were going to issue a fresh G.O. very soon; and the petitioners should be directed to consider the case of the respondent-applicant keeping in view her past performance, seniority etc. Even after holding that the petitioners should consider the case of the respondent-applicant, keeping in view her past service and seniority, the Tribunal curiously directed the petitioners herein to renew the contract of the respondent-

applicant as Lecturer in Botany in Zone IV, either in the Government Degree College (Men), Kadapa or in any other college of Zone IV, keeping in view her past performance and service.

As noted hereinabove the Tribunal has recorded the finding that there is no adequate strength in Botany subject in the entire Zone IV. It has also held that the action of the petitioners herein, in not extending the contract of the respondent-applicant during the academic year 2014-15, could not be found fault with. Having recorded these findings, the Tribunal initially concludes that the petitioners should be directed to consider the case of the respondent-applicant keeping in view her past performance, seniority etc, and then issues a positive direction to the petitioners herein to renew the contract of the respondent-applicant as lecturer. On a finding being recorded that there is no adequate strength in Botany subject, even a direction to consider the case of the respondent-applicant may not be justified. The Tribunal has clearly exceeded its jurisdiction in issuing a positive direction to the petitioners herein to renew the contract of the respondent-applicant as Lecturer.

Sri B.V.Ram Naresh Kumar, learned counsel for the respondent-applicant would draw attention of this Court to the specific averment in the O.A. filed by the respondent-applicant that the Regional Joint Director of Collegiate Education had continued the services of Sri B.Tirupal Reddy and B.Subba Rami Reddy, who joined in the academic year 2009 by renewing their contract service upto academic year 31.03.2014. Learned Government Pleader would contend that Sri B.Tirupal Reddy and Sri B.Subba Rami Reddy were not even arrayed as respondents in the O.A.

While the aspect regarding continuance in service of Sri B.Tirupal Reddy and Sri B.Subba Rami Reddy has been adverted to by the petitioners herein, in their counter affidavit before the Tribunal, the fact remains that the Tribunal has not examined this issue while passing the order under challenge in this writ petition. In such circumstances, we consider it appropriate, while setting aside the order of the Tribunal, to remand the matter to the Tribunal for its consideration afresh on the question whether failure to continue the respondent-applicant in service, while continuing Sri B.Tirupal Reddy and B.Subba Rami Reddy in service, would result in discrimination violating Articles 14 and 16 of the Constitution of India. Whether the plea of discrimination can be examined without Sri. B.Tirupal Reddy and Sri B.Subba Rami Reddy, being arrayed as respondents in the O.A., shall also be examined by the Tribunal before passing orders afresh in accordance with law.

The writ petition stands disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be

no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

31st March 2015.

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

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Date: 31.03.2015

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