

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

W.P. No.800 of 2015

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

This Writ Petition is filed against the order passed by the Andhra Pradesh Administrative Tribunal (for short 'Tribunal') in O.A.No.8562 of 2010 dated 14.12.2012.

The first respondent herein invoked the jurisdiction of the Tribunal to set aside the order of the District Educational Officer, Guntur District dated 04.02.2010 declaring the same as illegal and arbitrary. By his proceedings dated 04.02.2010, the District Educational Officer had informed the first respondent herein that her request for appointment to the post of Secondary Grade Teacher (SGT - Urdu) would not be considered.

The case of the first respondent herein, before the Tribunal, was that a notification was issued on 23.05.1997 for special recruitment to the posts of Urdu teachers wherein 13 posts of Urdu Teachers (SGT) were notified in Guntur District; the notification stipulated that the applicants must have studied SSC in Urdu medium or with Urdu as the first language at the high school level; G.O.Ms.No.1129 dated 28.09.1981 stipulates that no teacher, who was required to teach through a language in a medium of instruction, should be appointed unless he had studied through that language as a medium of instruction at the Secondary School Level or had taken that language as the first language at the high school level; contrary to the said G.O, relaxation was granted even to those applicants who had urdu as their second language at the intermediate level; aggrieved thereby, Smt Noorunnisa Begum had approached the Tribunal by filing O.A.No.4195 of 1997; the said O.A. was allowed by order dated 25.09.2003; the order in O.A.No.4195 of 1997 was not questioned by

the government before this Court and, as such, attained finality; some of those candidates who possessed the qualification of Urdu as the second language at the intermediate level had also submitted their application pursuant to the aforesaid notification; aggrieved by the order in O.A.No.4195 of 1997 dated 25.09.2003, they filed Writ Petitions before this Court; the Writ Petitions were dismissed granting them liberty to approach the Tribunal; those applicants, thereafter, filed O.A.No.7759 of 2005 and, by order dated 12.02.2008, the Tribunal upheld the impugned show cause notice as valid in law, and disposed of the O.A. permitting the applicants to submit a detailed representation to the District Educational Officer, Guntur District; Smt Noorunnisa Begum (applicant in O.A.No.4195 of 1997) was given appointment, by proceedings dated 25.08.2008, as a Secondary Grade Teacher; and she (i.e. the applicant in O.A.No.8562 of 2010) stood higher in rank than Smt Noorunnisa Begum and was similarly situated to her.

The Tribunal passed an interim order in O.A.No.8562 of 2010 on 20.12.2010 directing the respondents to consider the case of the first respondent herein as an SGT (Urdu) in any one of the existing vacancies taking into consideration the merit, eligibility and suitability as a less meritorious candidate was given posting as SGT (Urdu) vide proceedings 25.08.2008. The respondents were directed to pass orders within a period of three weeks. Thereafter, by the order under challenge, the interim order was made absolute and the respondents were directed to pass appropriate orders, on the interim orders, without reference to the proceedings dated 04.02.2010 of the District Educational Officer, Guntur District. Aggrieved thereby, the State of Andhra Pradesh and its officials have invoked the jurisdiction of this Court.

It is not in dispute that O.A.NO.4195 of 1997 dated 25.09.2003 filed by Smt Noorunnisa Begum has attained finality. Consequently, the appointment of SGTs was required to be confined only to those

who had either studied Urdu as a medium of instruction or had Urdu as the first language at the High School Level. Consequently, after excluding those who had Urdu as a second language at the intermediate level, Smt Noorunnisa Begum was entitled for appointment, and as such was appointed as an SGT on 25.08.2008. It is also not in dispute that the first respondent herein stood higher in rank than Smt Noorunnisa Begum in the selection held for the posts of SGTs, and she also fulfilled the requirement under the notification of having Urdu as the medium of instruction and the first language at the high school level. The Tribunal rightly held that, since the first respondent stood higher in rank than Smt Noorunnisa Begum and was similarly situated, she should also be extended the benefit of being appointed as an SGT.

The submission of the Learned Government Pleader for Services (AP), that the petitioner's application is belated, does not merit acceptance. The petitioner filed O.A.No.8562 of 2010 in February, 2010, less than a year and half after Smt Noorunnisa Begum was appointed as an SGT on 25.08.2008. The first respondent's delay in invoking the jurisdiction of the Tribunal is not inordinate, and would not disentitle her from being granted relief, more so as it is not in dispute that she stood higher in rank than Smt Noorunnisa Begum who was appointed as an SGT.

A feeble attempt is made by the Learned Government Pleader to contend that all the vacancies, pursuant to the notification, have already been filled up. The earlier order of the Tribunal in O.A.No.4195 of 1997 dated 25.09.2003 required the respondents to exclude those who were appointed on the basis of clarificatory memo, i.e. those who did not possess Urdu as the first language at the SSC level but had passed Urdu as the second language at intermediate level, from consideration for appointment to the post of SGT (Urdu). Thereafter the applicant in O.A.No.4195 of 1997, and others who were also eligible, were required to be considered for appointment. It does not

stand to reason that the respondents, having failed to comply with the order of the Tribunal in O.A.No.4195 of 1997 dated 25.09.2003 and having chosen not to exclude those who were ineligible, should now be heard to contend that no vacancies are available for appointment of the first respondent as an SGT. We see no reason, therefore, to interfere with the order of the Tribunal.

The Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY,J

Date:23.01.2015

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