

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**WRIT PETITION Nos. 18334 of 2000 and 20711 of 2013**

**COMMON ORDER:**

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Since both the writ petitions are inter-connected the same are being disposed of by this common order.

The averments in W.P.No.20711 of 2003 are as under:

The petitioner was appointed as part time lecturer in the Chemistry department at Jawahar Bharathi Degree College, Kavali, Nellore District on 06.11.1996. While the matter stood thus, the third respondent issued a notification dated 15.09.1996 inviting applications from the eligible candidates for filling up unaided posts of lecturers in various subjects including that of the subject of Chemistry in terms of G.O.Ms.No.12, Education, dated 10.01.1992. The said recruitment was on regular basis.

The averments in the affidavit filed in support of the writ petition further discloses that the petitioners in both the writ petitions were appointed as Lecturers in Chemistry vide proceedings dated 06.05.1997 against a work load of unaided sections in the college. It is further stated that it has been the practice and procedure that whenever a grant-in-aid post arises in any subject, the said post will be filled up by a candidate who is working in an unaided post. While things stood thus, one person by name B.Ramakrishnaiah, Lecturer in Chemistry holding the grant-in-aid post retired from service on voluntary basis on the afternoon of 31.10.2002. It is stated that though a clear vacancy was existing in the grant in aid post and that the writ petitioner

was appointed as Lecturer in Chemistry by duly constituted selection committee, no steps were taken to appoint the writ petitioner in the said post. Aggrieved by the action of the respondent, the petitioner gave a representation on 02.11.2002 to the second respondent requesting him to absorb her as lecturer in Chemistry in the vacancy caused due to retirement of D.Ramakrishnaiah. As there was no action, the Writ Petition No.20711 of 2003 came to be filed.

On 07.04.2004 this Court directed the second respondent to consider the representation dated 02.11.2002 made by the petitioner within a period of three weeks from the date of receipt of the said order and further directed the second respondent to communicate the decision to the petitioner within the aforesaid time. It is stated that on 10.09.2004 the request of the petitioner was rejected. Thereafter, the prayer in the writ petition was amended questioning the action of the second respondent in rejecting the request of the petitioner. Thereafter, the writ petitioner made a representation dated 18.09.2004 before the first respondent seeking enquiry by the concerned Regional Joint Director of Collegiate Education with regard to the allegations made in the said representation. The Regional Joint Director of Collegiate Education, Guntur, conducted enquiry and submitted a report to the Director of College Education, wherein it was held as under:

“The allegation leveled at Para II of the representation is held proved. However, the Management represented by the Correspondent, Jawahar Bharathi Degree College, Kavali, pleaded ignorance as it has happened without their knowledge.”

Thereafter, the Director of Collegiate Education, Andhra

Pradesh, Hyderabad, wrote a letter in Rc.No.1292/Admn.IV-2/03, dated 07.04.2005, to the Principal Secretary to Government, Higher Education (CE.II) Department, Government of Andhra Pradesh, Hyderabad, bringing to his notice the findings arrived at by the Enquiry Officer while making enquiry into the allegations leveled against the Management of Jawahar Bharati Degree College, Kavali. A reading of the said letter discloses that there were three aided vacant posts of Lecturers in Chemistry as stated by the writ petitioner in her representation and that statement is correct. According to her, a perusal of the Enquiry Report would show the seniority of the lecturers in Chemistry working in Jawahar Bharati Degree College, Kavali, which is as under:

1. L. Jivan Madhukar, un-aided Lecturer in Chemistry
2. Smt. N.Umalakshmi, un-aided Lecturer in Chemistry
3. V.Chandrakumar, un-aided Lecturer in Chemistry

The Director of Collegiate Education, requested the Government to pass suitable orders on the representation of the petitioner, pursuant to the interim orders dated 07.04.2004 passed by this Court in W.P.M.P.No. 30849/2003 in W.P.No.20711 of 2003 at an early date. A remainder was also sent to the Principal Secretary to the Government, Higher Education, but there was no action till date. Hence, the present writ petition is filed.

The averments in W.P.No.18334 of 2000 are as under:

The petitioner after completion of M.Sc. (Chemistry) in S.V.University, was appointed as part-time Lecturer in third respondent college. He is alleged to have worked in the said post

for a period of six months in the year 1989. In order to do his Ph.D. he left the said post of Part-Time Lecturer. In the selections conducted on 05.05.1997 and 06.05.1997, he was selected as Lecturer in the un-aided post of Chemistry in the third respondent college. The petitioners in both the writ petitions were appointed following the procedure in G.O.Ms.No.12, dated 10.01.1992. In order to fill up the vacancy which arose due to the retirement of one D.Ramakrishna, the third respondent college issued proceedings dated 04.04.2000 seeking permission of the Commissioner of Collegiate Education (second respondent) to fill up the said vacancy by direct recruitment though the incumbents working in the un-aided post are entitled to be absorbed in the said vacancy. Questioning the said action one Jeevan Madhukhar, the fourth respondent herein, filed W.P.No.6763 of 2000. Pending the said proceedings, the fourth respondent was also appointed along with other petitioner in the selections made in the year 1997.

It is stated that in the said selection the petitioner in W.P.No.18334 of 2000 was placed at Sl.No.4 while the fourth respondent ie. Jeevan Madhukar was placed at Sl.No.6. Since no action was taken by the third respondent college in taking the petitioner to the grant-in-aid post, the present writ petition came to be filed. It is placed on record that subsequently, W.P.No.6763 of 2000 filed by Jeevan Madhukar (fourth respondent) was withdrawn.

Heard learned counsel for the petitioners and learned counsel for the respondents.

The issue that arises for consideration is whether the writ petitioner in W.P.No.20711 of 2003 or the writ petitioner in

W.P.No.18334 of 2000 are to be absorbed in the vacancy of grant-in-aid post.

Relying upon the enquiry report and also the letter written by the Director of Collegiate Education to the Principal Secretary, the learned Senior Counsel Sri Surya Karan Reddy would submit that the petitioner in W.P.No.20711 of 2003 has to be treated as senior as the petitioner in W.P.No.18334 of 2000 never joined after his selection in the year 1997. The relevant portion of the enquiry report which dealt with the alterations made by the third respondent in the attendance register is as under:

“Dr.V.Chandra Kumar has not reported to duty on 01.07.1997 and subsequently his name was included in the Attendance Register against Sl.No.11-A after Sl.No.12 because there was no space between Sr.No.11 and 12 taking the joining report on a subsequent date. If he reported to duty on 01.07.1997, there is no need to write his name by allotting a sub-number like 11-A. Further, the endorsement of the then Principal on the joining report of Dr.V.Chandra Kumar also reveals that in a hurry of taking the joining report on a subsequent date, the then Principal recorded as “taken to duty on 01.07.1996 instead of 01.07.1997 since the then Principal written the endorsement at a later date to favour the Lecturer. If Dr.V.Chandra Kumar was reported to duty on 01.07.1997, he would have been paid the salary from 7/1997 onwards along with the other staff members, but he was not paid salary upto 06/1999. This also proves that he was not in service from 01.07.1997 and reported to duty only 29.06.1999 after a gap of nearly two years.”

From the above, it is clear that though he was selected in the year 1997, the petitioner did not join in duty till June, 1999. The enquiry report also refers to the absence of the name of Dr.V.Chandra Sekhar in the attendance register from December, 1998 till 29.06.1999, for which the third respondent has no

explanation. Further, a letter written by the Director of Collegiate Education, to the Principal Secretary, Higher Education, clearly discloses the seniority of un-aided lecturers in Chemistry working in the third respondent college. Sri Jeevan Madhukar, who is petitioner in W.P.No.6763 of 2000 was shown at Sl.No.1 while petitioner in W.P.No.20711 of 2003 was shown at Sl.No.2 and the petitioner in W.P.No.18334 of 2000 was shown at Sl.No.3. These facts which are placed on record by the counsel for the petitioner are not disputed by the learned counsel for the third respondent. Thus, it is clearly established that the petitioner in W.P.No.20711 of 2003 is senior to the petitioner in W.P.No.18334 of 2000. If the petitioners who were working as un-aided lecturers in Chemistry of the third respondent college are to be absorbed for grant-in-aid post, the petitioner in W.P.No.20711 of 2003 is to be absorbed first and if any other vacancy arises for grant-in-aid post the petitioner in W.P.No.18334 of 2000 has to be absorbed.

For the aforesaid reasons, the Principal Secretary, Higher Education, is hereby directed to consider the case of the petitioner in W.P.No.20711 of 2003 (N.Uma Lakshmi) in the available grant-in-aid post in third respondent college duly considering the seniority as determined by the Director of Collegiate Education. If there are more than one post, the petitioner in W.P.No.18334 of 2000 (Dr.V.Chandra Kumar) shall also be considered for grant-in-aid post as per the seniority determined by the Director of Collegiate Education.

With the above direction, both the writ petitions are disposed of. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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**JUSTICE C. PRAVEEN  
KUMAR**

16.07.2015  
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