

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.20828 of 2010

-

Dated 28th October, 2015

Between:

Smt.S.Koteswaramma

...Petitioner

And

State of Andhra Pradesh, rep.by its Principal Secretary to Government, Higher Education Department, Secretariat, Saifabad, Hyderabad and others

...Respondents

Counsel for the petitioner: Sri N.A.Ramachandra Murthy

Counsel for respondent Nos.1 to 3: AGP for Higher Education (AP)

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to declare the action of the respondents in approving fixation of scale of pay of the petitioner from 10.02.2004 instead of 09.06.2003 as Junior Lecturer in Telugu in respondent No.4-College as

illegal and arbitrary.

I have heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Higher Education (AP) appearing for respondent Nos.1 to 3.

It is stated in the affidavit filed in support of the writ petition that the petitioner was initially appointed as Grade-I Telugu Pandit (Aided) in 1998 and that she was promoted as Junior Lecturer by the Management of respondent No.4 on 09.06.2003. However, the petitioner's promotion was approved by respondent No.2 w.e.f., 10.02.2004. By proceedings in Rc.No.Admn.I-B-2/3883/2001, dated 11.09.2004, the Director of Intermediate Education, Andhra Pradesh, Hyderabad has fixed the pay scale of the petitioner in the promoted post of Junior Lecturer w.e.f., 10.02.2004. Feeling aggrieved by denial of pay fixation w.e.f., 09.06.2003 i.e., the date from which the petitioner was promoted as Junior Lecturer by the Management of respondent No.4, she has filed this writ petition. In support of her plea that she is entitled to pay fixation in the cadre of Junior Lecturer w.e.f., 09.06.2003, the petitioner has placed reliance on the order, dated 18.12.2007, of a learned Single Judge of this Court in W.P.No.41 of 2006.

At the hearing, the learned counsel for the petitioner placed reliance on the said order.

The learned Assistant Government Pleader for Higher Education submitted that as per Circular, dated 07.11.2003, issued by respondent No.1, the pay fixation of a promoted candidate is made from the date of approval of the promotion by the competent authority and not from the date of promotion by the Management. She has distinguished W.P.No.41 of 2006 with the present case by stating that in the former case, the promotion of the petitioner therein was approved on 03.07.2003, while the Government issued the Circular on 07.11.2003.

It is not in dispute that as per Circular, dated 07.11.2003, scale of pay of a promotee shall be fixed from the date of approval of promotion by the competent authority and not from the date of promotion by the Management. From the facts noted above, it is clear that the petitioner was promoted by the Management of respondent No.4 as Junior Lecturer on 09.06.2003, but her promotion was approved by respondent No.2 on 10.02.2004 only. By the time the petitioner's promotion was approved, Circular, dated 07.11.2003, came into existence. In W.P.No.41 of 2006,

this Court has held that the Circular, dated 07.11.2003, was not applicable to the facts of that case as by the time it came into existence, promotion of the petitioner therein was approved. Therefore, the said judgment would not come to the aid of the petitioner. As the petitioner's promotion was approved by the competent authority after coming into force of Circular, dated 07.11.2003, under which she is entitled to the fixation of pay in the promoted post from the date of approval of her promotion by the competent authority, she is not entitled to the benefit of higher pay scale w.e.f., 09.06.2003.

For the above-mentioned reasons, the writ petition is without any merit and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.Nos.26477/2010 & 40902/2014 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

28th October, 2015

VGB