

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

WRIT PETITION NO.15743 OF 2010

DATED:30-9-2015

Between:

S. Usha Shree ... Petitioner

And

Government of A.P.,

Rep. by its Principal Secretary

Intermediate & Secondary Education Department

Secretariat

Hyderabad

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. M. Dilip Rao

COUNSEL FOR THE RESPONDENTS: None appeared

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to direct respondent No.6 to pay regular pay scale attached to the post of Lecturer, i.e., Rs.5,980 – 12,100 as revised as Rs.9,285 – 21,550, and from time to time thereafter, to the petitioner, declaring the action of the respondents in not regularizing her services in the post of Lecturer from the date of her appointment as Lecturer, as illegal and arbitrary.

2. The petitioner in her affidavit averred that she was appointed as Lecturer in

respondent No.6 college, which is an aided institution, on a consolidated pay in the year 1992. That in the year 1996 she was appointed as Lecturer through selection process by the Selection Committee consisting of a Member of the Andhra Pradesh College Commission, two joint Directors of the Office of the Commissioner of the Collegiate Education and representatives of the Osmania University subject experts. That in the year 1999 the services of the petitioner were terminated orally, that questioning the same, the petitioner filed W.P. No.14093 of 1999 and the said writ petition was disposed of by order dt.17.4.2008 holding that the termination of the petitioner's services abruptly without following the procedure prescribed under Section 79 or 83 of the Andhra Pradesh Education Act, 1982, was arbitrary and illegal. That this Court has, however, left the respondents free to initiate action for termination of the services of the petitioner after issuing a notice as per law and a further direction was issued to consider the petitioner's case for regularization, if her services are found necessary in the Intermediate section. That the said order was confirmed in Writ Appeal No.724 of 2008 filed by the management of respondent No.6.

3. The petitioner further averred that in the year 2008, her services were again terminated without following the procedure as directed by this Court in W.P. No.14093 of 1999. That the petitioner filed contempt case No.1448 of 2008 and during the pendency of the said contempt proceedings, the order terminating the petitioner's services was withdrawn by the management and since then her services are being utilized to teach Intermediate Section in the Junior College. That the petitioner made representation on 17.2.2010 to respondent No.7 to pay the revised pay scale of Rs.9,285 – 21,550. As the said writ petition did not yield any result, the petitioner filed this writ petition.

4. While admitting this writ petition, this Court has granted interim order dt.12.07.2010 directing respondent Nos.5 to 7 to consider extension of revised pay scales to the petitioner and pass appropriate order as per law within four weeks from the date of receipt of the copy of the order. The learned counsel for the petitioner has submitted that in spite of the said direction, no order has been passed by the said respondents either accepting or rejecting the petitioner's representation for payment of regular pay scales.

5. Mr. M. Dilip Rao, learned counsel for the petitioner, has relied upon Division

Bench judgment of this Court dt.27.9.2006, in Writ Appeal No.930 of 2006, to which I am a party, in support of his submission that being an Aided Private College, respondent No.6 is bound to pay regular pay scales in accordance with Rule 7(4) of the Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Institutions of Higher Education) Rules, 1987 (for short, 'the Rules'), notified by the Government vide G.O. Ms. No.29, dt.5.2.1987.

6. A perusal of the above said judgment shows that the facts of the said case are almost similar to that of the present case. The writ petition filed by two Lecturers, who were appointed on consolidated pay, for regular pay scale, was allowed by the learned single Judge directing the Government to consider the proposal submitted by the educational institution for admitting the posts in Science Department to grant-in-aid, and take an appropriate decision and communicate the same to the institution at the earliest. The learned single Judge further held that failure of the institution to receive financial assistance from the government, does not relieve the management of its obligation to pay proper salary and other benefits imposed upon them by law and that the institution is duty bound under Rule 7(4) of the Rules notified in G.O. Ms. No.29, dt.5.2.1987, to pay salaries to its staff as per the government scales of pay. Accordingly, a direction to that effect was issued by the learned Judge. The said order was questioned in Writ Appeal No.930 of 2006. While dismissing the said writ appeal, speaking for the Division Bench, I have held as under:

"In our opinion, Rule 7(4) and clause (f) of G.O. Ms. No.550 dated 22.7.1980 have salutary purpose. It is common knowledge that private educational institutions, which are proliferating year after year, are turning into commercial ventures for which profit making is the sole moto. Persons with high academic qualifications including Doctorate are exploited by the managements by paying pittances to them, despite the fact that most of these educational institutions earn huge profits. It is obviously to prevent this exploitation that the government thought it fit to stipulate clause (f) as a condition while granting permission to start the institutions and later framed Rule 7(4) providing for payment of government scales to the teaching staff working in the private educational institutions."

7. The case on hand is similar to that in Writ Appeal No.930 of 2006. The petitioner having been duly selected and appointed, is entitled to the regular pay scales as per Rule 7(4) of the Rules, which reads as under:

"PAYMENT OF SALARIES TO STAFF: *The educational agency of any private institution shall pay salaries to its staff as per the government scales of pay and by following such procedure as may be prescribed by government from time to time, in this regard."*

8. In the light of the above, respondent Nos.5 to 7 have no option, other than paying salaries to the petitioner in terms of Rule 7(4) of the Rules.

9. The writ petition is accordingly allowed as prayed for.

As a sequel to disposal of the writ petition, W.P.M.P. Nos.20561 of 2010 and 29944 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

30-9-2015

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