

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO. 21894 of 2014

ORDER:

The petitioner herein challenges the correctness of the orders passed by the Commissioner of Collegiate Education, Andhra Pradesh on 26.12.2013 in this writ petition. The petitioner is presently working as a lecturer in Mathematics in M.R. College (Autonomous), Vizianagaram District. It is not in dispute that the petitioner herein came to be appointed as a lecturer in Mathematics on 20.01.1997 against the roster point reserved for candidates belonging to Scheduled Castes. It appears, the sixth respondent herein was appointed as a lecturer in Mathematics on 17.09.1984 in the same college on temporary basis initially as the vacancy that was notified was reserved for members belonging to Scheduled Castes. However, since no candidate belonging to Scheduled Caste has applied, the sixth respondent has been selected and appointed. Since the post of lecturer in the college was admitted to grant-in-aid, the State Government has considered the entire matter and admitted her to grant-in-aid during 1997 upon her completing three years of service, from the date of her initial appointment in the College. Thus, the date of appointment of the sixth respondent as a lecturer in Mathematics of the college was considered as regular date of appointment as 17.09.1984. The petitioner's grievance in this case is that, since the initial appointment of sixth respondent was on a temporary basis against a reserved slot meant for candidates belonging to Scheduled Castes, she cannot be treated as senior to the petitioner as the sixth respondent does not belong to Scheduled Caste.

It is appropriate to notice that any attempt made by a college to fill up vacancy in a teaching post with any of the candidates belonging to the reserved segments such as Scheduled Castes, Scheduled Tribes and Backward Classes did not fructify and if they could not secure any candidate for such appointment, the vacancy can get carried forward. In other words, if a particular post is liable to be filled up by a candidate belonging to Scheduled Caste/Scheduled Tribe/Backward Class, when no such candidate is available, the same may be filled up with a candidate belonging to the open category and one other vacancy of open competition will be

treated and shown as reserved for candidates belonging to Scheduled Castes/Scheduled Tribes/Backward Tribes additionally. Thus, the teaching programme will not get impaired for want of availability of the candidates belonging to the reserved segment. Subsequently, when the candidates become available, the candidate of the respective social sector will have to be additionally recruited. The candidate who was initially recruited against the reserved segment slot does not lose any right whatsoever to compute and count the length of service towards seniority or pay fixation or any other benefit. Therefore, the Commissioner of Collegiate Education has rightly noted that the petitioner has now been selected as a lecturer more than 12 years after the recruitment of the sixth respondent as a lecturer and also after regularizing her appointment in 1987 by admitting her to grant-in-aid, cannot make any claim for seniority over her. The claim of the petitioner is that he should be treated as senior to the unofficial respondent no.6, is not based upon any valid or tenable principle.

Sri Aravala Rama Rao, learned counsel for the petitioner would urge that the sixth respondent possesses post graduate degree of M.Sc in Statistics and hence, she could not have been appointed as a lecturer in Mathematics of a degree college at all. It is a policy choice as to whether candidates who possesses post graduate degree in statistics are also eligible for recruitment as a lecturer in Mathematics. Courts are ill-equipped to pronounce any opinion thereon. For instance, and for easy understanding, in Chemistry subject there are several specialized branches such as Organic Chemistry, Inorganic Chemistry, Physical Chemistry, etcetera. All such candidates who possess the post graduate degree in one specialization or the other noted supra are also eligible for recruitment is a matter of policy choice. Unless it is shown that no such recruitment is feasible, it is not open to this Court to pronounce any opinion. Perhaps, only at the university level, water tight compartmentalization of the recruitment process for teaching the specialized subjects may be feasible, as it is noted that the course content to be taught at the post graduate level is essentially based upon acquisition of specialized knowledge. For teaching graduate courses, such specialized knowledge may not be really necessary, as the course content is generally spread over all aspects in general terms and only few subjects in specific terms. This apart, the selection and appointment that took place more than 12 years prior to the writ petitioner gaining a foot-hold in the college cannot be challenged by him. The petitioner lacks the necessary locus to call in question the correctness and validity of the selection carried out by the college management

which has since been approved by the Government as well.

I, therefore, do not find any merit in this writ petition and it is accordingly dismissed. No costs.

Consequently, miscellaneous applications pending shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

26.03.2015

sp