

**THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

WRIT APPEAL No.1496 of 2013

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P.C.: (per Hon'ble Sri Justice A.Ramalingeswara Rao)

This writ appeal is directed against the order of the learned single Judge dated 04.04.2008 passed in Writ Petition No.1699 of 2000 disposing of the writ petition, directing the second respondent in the writ petition to send proposals for regularization of services of the writ petitioner and on forwarding such proposal, the 3rd respondent shall consider the case of the petitioner for regularization of services in the post of Attender in the 2nd respondent-College in the existing vacancies forthwith and it was also directed that he shall be given seniority on par with his juniors whose cases were regularized and the posts were admitted to grant-in-aid vide proceedings dated 21.12.1999.

It is not in dispute that the Commissioner and Director of Collegiate Education had issued proceedings in Rc.No.3364/PC.I-1/98-1 dated 21.12.1999 permitting the Secretary & Correspondent, D.N.R.College, Bhimavaram, to issue appointment orders to 12 persons belonging to non-teaching staff category of the College by absorbing them into grant-in-aid vacant posts as shown in the said proceedings. Pursuant to the direction of the learned single Judge, Government issued G.O.Rt.No.84 Higher Education (CE-II-1) Department dated 15.02.2010 regularizing the services of the writ petitioner as aided Attender in D.N.R.College, Bhimavaram, West Godavari District, from the date of issuance of the said order subject to the condition that said vacancy was a clear, regular and continued further till that date and no senior eligible person is overlooked/omitted. In view of the passing of the said order, the first portion of the direction issued by the learned single Judge was

complied with and the only thing that remains is with regard to the seniority that has to be accorded to the petitioner pursuant to the said order of the learned single Judge.

As already stated above, 12 non-teaching staff were absorbed pursuant to the orders in Rc.No.3364/PC.I-1/98-1 dated 21.12.1999. When there is a clear existing vacancy, as on the said date, of the posts of Attender, the writ petitioner, being senior to the persons whose names were mentioned therein, is entitled for regularization in the normal course. It appears that the Management has not sent the proposals for regularization of his services, which resulted in filing of the writ petition and issuance of orders later by the Government, pursuant to the orders of the learned single Judge, in G.O.Rt.No.84 Higher Education (CE-II-1) Department dated 15.02.2010 without clearly indicating therein 'in clear vacancy of attender existing as on 21.12.1999' to accommodate the case of the petitioner. If the writ petitioner is a senior to the persons whose names are mentioned in the order dated 21.12.1999, he should not be denied absorption merely because the Management has not sent the proposals for his absorption. Now, Government has passed orders regularizing his services in aided vacancy, but the order should take effect from the date when his juniors were absorbed as attenders since the writ petitioner is senior to them. We are not provided with complete facts in relation to the vacancy position as of 1999 and since the Government has already issued orders of regularization in the case of the writ petitioner, subject to availability of the vacancy, we are not inclined to admit this appeal.

The writ appeal is dismissed at the admission stage.

Miscellaneous petitions pending in the case, if any, also stand disposed of.

Dilip B.Bhosale, J

18th March, 2015.
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A.Ramalingeswara Rao, J