

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.3004 of 2011

Date: 06.09.2016

Between:

S.Ram Mohan Rao, s/o. late S.Govinda Rao,
Aged about 51 years, Junior Lecturer,
R/o. Ganapavaram, W.G.District.

.....Petitioner

and

The State of A.P., rep.by its Prl.Secretary,
Education Department, Secretariat,
Hyderabad and two others.

.....Respondents



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ORDER:

Petitioner was originally appointed as Part-time Junior Lecturer in History on pay of Rs.10/- per hour against aided post in SCBR Junior College, Ganapavaram, West Godavari District. In G.O.Ms.No.328 Education (CE.III) Department, dated 15.10.1997, Government formulated the scheme of regularization of Part-time Junior Lecturers working in the private aided Degree/Junior Colleges subject to fulfillment of the conditions mentioned therein. In pursuant to the said scheme, services of the petitioner were regularized w.e.f. 06.04.1998. In this writ petition, petitioner seeks regularization of his services retrospectively from the year 1991.

2. Heard Sri V.Krishna Mohan, learned counsel for petitioner and learned Government Pleader for Education (AP) for respondents 1 and 3.

3. Learned counsel for petitioner would contend that as petitioner was appointed against vacant aided post and was qualified and suitable for the post of Junior Lecturer in the History on hourly basis, his services ought to have been regularized from the year 1991 instead of 1998. On account of regularization granted from 1998 instead of 1991, grave prejudice is caused to the petitioner. Seven years of service would not be accounted for the purpose of service benefits and seniority. Petitioner earlier filed W.P.No.3885 of 1996 praying to

grant regularization from the year 1985. The said writ petition was disposed of on 11.02.2005 with a direction to consider the application of the petitioner dated 29.11.1993 and pass appropriate orders thereon. He would, therefore, urge that services of the petitioner ought to have regularized retrospectively from the date of his eligibility and denial of the same is arbitrary and discriminatory.

4. The stand of the respondents is that petitioner was originally appointed as Part-time Junior Lecturer. In pursuant to the scheme of regularization formulated by the Government to the Government employees and also to the Lecturers working in Government service, Government passed orders in G.O.Ms.No.328 granting regularization in aided institutions also and pursuant to the said orders, regularization was granted to the petitioner. The regularization order issued in G.O.Ms.No.328 was only prospective and the same cannot be granted retrospectively. All such regularizations were granted prospectively only.

5. The relevant facts which are not in dispute are that petitioner was originally appointed as Part-time Lecturer on hourly basis and his services were regularized in the year 1998. Though his services were regularized in the year 1998, he took his own time to come to this Court praying to direct to regularize retrospectively in the year 2011. Vide G.O.Ms.No.328, scheme of regularization is formulated. It is not given retrospective effect. The scheme is not under challenge. Furthermore, if the claim of

regularization is granted to the petitioner from the date of his original appointment i.e., 1991, it would certainly affect such of those Lecturers working on regular basis prior to the year 1998 or such of those Lecturers whose services were regularized prior to 1998, but those Lecturers are not made party to the writ petition.

6. It is also settled principle of law that no regularization can be granted retrospectively. Very fact of granting regularization would mean that the appointment prior to regularization was not on regular basis. Regularization is to condone the irregularity of initial selection and appointment. Thus, regularization cannot be granted retrospectively.

7. As noticed above, as regularization was granted in the year 1998, granting of relief as sought by petitioner would have adverse consequences to other Lecturers, who are not parties to the writ petition. It is also noticed that earlier petitioner filed W.P.No.3885 of 1996. During the pendency of the said writ petition, his services were regularized in the year 1998. He did not prosecute against the subsequent action of the respondents in granting regularization only prospectively and it was represented before this Court that the representation dated 29.11.2003 praying to grant regularization was yet to be disposed of. The Court was not informed about the subsequent regularization. Having regard to the statement made, the above writ petition was disposed of, without expressing any opinion on merits, directing the respondents to dispose of the

representation dated 29.11.2003. He took five more years to file this writ petition. For all the aforesaid reasons, no relief as prayed for can be granted in this writ petition.

8. Accordingly, writ petition is dismissed. No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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