

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**W.P.No.30902 of 2012****ORDER:**

Heard the learned counsel for the petitioners and Sri A.Abhishek Reddy, learned counsel for the respondents.

2. The petitioners were working as Academic Assistants in the Jawaharlal Nehru Technological University (JNTU) College, Masab Tank, Hyderabad, on temporary basis, on consolidated pay since prior to 1990. Since their services were not regularized, they filed W.P.No.5019 of 1995 before this Court. They placed reliance on G.O.Ms.No.212 dt.22-04-1994 issued by the then Government of Andhra Pradesh and pleaded that they have been continuously working for more than five years and are entitled for regularization as per the said G.O.

3. The respondents opposed the said contention stating that they were appointed purely on temporary basis as stop gap arrangement till vacant posts are filled up by following the procedure and that they did not go through the proper selection process. They took the stand that the petitioners cannot be regularized as lecturers since they did not apply for the posts for which they were appointed pursuant to any advertisement and did not under go selection process.

4. By judgment dt.13-03-2003, the said Writ Petition was allowed holding that the respondent-University itself admitted that the

petitioners had been appointed as Academic Assistants under a scheme evolved by the University under Clause 13 (i) of Statute XIV of First Statutes of the University, that there was no dispute that the petitioners were fully qualified and eligible to be appointed to the post of lecturer and they had been discharging the duties of lecturer all through. It also held that the petitioners were neither over aged nor under aged at the time of their appointment as Academic Assistants and they were discharging duties to the satisfaction of the respondents. It therefore held that the petitioners cannot be held to have been appointed by illegal methods and the University cannot be allowed to exploit them by paying them consolidated salary instead of regular pay scale payable to a regular lecturer and make them work as lecturers. It therefore held that the petitioners are entitled to regularization of their services as lecturers in the respondents-University as their eligibility and merit are not in dispute.

5. This was questioned in W.A.No.627 of 2003 by the respondents. The Writ Appeal was also dismissed on 28-07-2008 holding that the respondents shall consider sympathetically the case of the petitioners for regularization of their services in the cadre of lecturer.

6. Since the respondents did not consider the case of the petitioners for regularization, C.C.No.230 of 2009 was filed by the petitioners before this Court. Thereafter, proceedings dt.20-04-2010 were issued by the respondents regularizing their services as

(Lecturer) Assistant Professor in Photography and Assistant Professor in Applied Art respectively in the scale of pay Rs.8000-275-13500 (APR UGC, 1996) from 20-04-2010 onwards.

7. Alleging that the respondents ought to have regularized their services at least from the date when W.P.No.5019 of 1995 was allowed i.e. 13-03-2003, and that they should have also been given consequent benefits like fixation of pay, seniority etc. from that date, the petitioners have filed this Writ Petition.

8. The petitioners contend that the Writ Appeal filed by the respondents was pending for five years and taking advantage of the same, the respondents cannot deny the benefit of regularization from the date the Writ Petition was allowed. They also contend that even after the Division Bench dismissed the appeal, respondents took further two years to pass the proceedings dt.20-04-2010 and that there was no valid justification for denying to the petitioners the relief of regularization from 13-03-2003.

9. Respondents however contend that the petitioners did not have any vested right to seek regularization of their services to a particular date and that they had regularized their services only after the State Government gave permission for regularization of their services from 20-04-2010. It is stated that the respondents cannot regularize their services from 13-03-2003 in view of the financial implications unless permitted by the Government. It is also stated that

the petitioners did not enter into services as per UGC guidelines and norms.

10. Learned counsel for the respondents Sri A.Abhishek Reddy reiterated the contentions.

11. Since the learned Single Judge in his order dt.13-03-2003 in W.P.No.5019 of 1995 has categorically held that the petitioners were eligible for appointment of lecturer, the stand taken by the respondents that the petitioners did not enter into service as per UGC guidelines and norms cannot be entertained and is barred by *res judicata*. Having appointed the petitioners in 1988 and 1991 on temporary basis and having continued them till 13-03-2003, it was not open to the respondents to deny them relief of regularization. Once the High Court in W.P.No.5019 of 1995 has held that they are entitled for regularization, the stand taken by the respondents that the petitioners did not have any vested right to seek regularization of their services from a particular date cannot be accepted since the respondents cannot be allowed to act arbitrarily and deny the petitioners the benefit of service from 13-03-2003, the date when W.P.No.5019 of 1995 was allowed.

12. It is settled law that once services of persons employed on temporary basis are regularized, they are entitled to pay payable to regular employees and therefore only with a view to deny financial

benefit of the petitioners, it appears that the respondents chose to pass the impugned order.

13. Therefore, the Writ Petition is allowed and the action of the respondents in regularizing the services of the petitioners as Assistant Professors with effect from 20-04-2010 is declared as illegal, arbitrary and unconstitutional and the respondents are directed to regularize the services of the petitioners with effect from 13-05-2003 when W.P.No.5019 of 1995 was allowed with all consequential benefits including fixation in the appropriate pay scale, seniority etc and pay the financial benefits due to the petitioners within three months from the date of receipt of a copy of this order. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-12-2016

Note: Issue C.C. in a week.

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