

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**WEDNESDAY, THE THIRTY FIRST DAY OF AUGUST,
TWO THOUSAND AND SIXTEEN**

**Present
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT PETITION No.7665 of 2011

Between:

Ch. Ramanjulu, s/o. Narasaiah, Aged:about 57 years, occ.Govt.
Junior College, Cumbum Post and Mandal, Prakasam District and
others.

.. Petitioner

AND

The Commissioner of Technical Education, Government of Andhra
Pradesh, Hyderabad and others.

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.7665 of 2011****ORDER**

Petitioners were employees of third respondent college. It appears, there were some disputes between the management of third respondent and its employees with reference to the service grievance of the employees. Petitioners and others raised their grievance. Disturbed by the grievance agitated by the employees, management initially resorted to placing them under suspension by orders dated 02.02.2006. On 27.03.2006, they served with charge memo. By further proceedings dated 22.09.2006, the Principal of the college was appointed as enquiry officer. By proceedings dated 01.02.2007, services of the petitioners were terminated. Against the orders of termination, the first petitioner filed W.P.No.4104 of 2007, wherein this Court directed him to avail the remedies as available under the Andhra Pradesh Education Act, 1982 (for short 'the Act') and the Rules made therein. Accordingly, appeals were filed before the Commissioner of Technical Education. The Commissioner, by order dated 27.08.2007, directed the third respondent management to reinstate all the terminated employees. Aggrieved by the order of the Commissioner, the third respondent preferred W.P.No.22134 of 2008, wherein this Court set aside the order dated 27.08.2007 and directed the Commissioner to pass orders afresh after giving due opportunity to the third respondent management. Consequent to the said orders of this Court, the Commissioner considered the entire issue after affording due

opportunity to the third respondent and passed orders on 01.04.2010. The Commissioner held that the order of termination of service of petitioners was not made by following due process as required by the Andhra Pradesh Education Act, 1982 and Andhra Pradesh Private Institutions Employees Disciplinary Control Rules, 1983 (for short 'the Rules'). The Commissioner further held that prior permission of the competent authority was not obtained. He, therefore, allowed the appeal and directed the third respondent to reinstate all the seven terminated employees. This order of Commissioner dated 01.04.2010 has become final as no challenge was made either before the Government or before this Court.

2. Alleging non-compliance of the directions issued by the Commissioner and seeking a direction to respondents 1 and 2 to enforce the orders passed by the Commissioner on 01.04.2010, the present writ petition is filed.

3. It is clear from the facts as noted above, that the order of termination dated 01.02.2007 was set aside by the competent authority, but the same is yet to be implemented. In the meanwhile, one petitioner attained the age of superannuation and another petitioner left this world. In the counter affidavit filed on behalf of third respondent, no reasons were assigned as to why the directions issued by the Commissioner in his proceedings dated 01.04.2010 are not complied and why petitioners are not inducted into service.

4. As noticed by the Commissioner in his order dated 01.04.2010, the procedure, as envisaged under Sections 79

and 80 of the Act and the Rules, was not followed before terminating the services of petitioners. In fact, petitioners had serious grievance in appointing the Principal of the college as enquiry officer. The grievance of the petitioners was that even before their termination was made, the management did not act in a bona fide manner and appointment of the Principal as enquiry officer, as he was concerned with all the events preceding the termination, would cause serious prejudice to them. Though specific allegation is made with regard to the bias of the Principal and causing prejudice in conducting the disciplinary proceedings, counter affidavit is blissfully silent on the said aspect.

5. However, having regard to the fact that the petitioners are out of service since 01.02.2007, on 26.08.2016, counsel for the third respondent was directed to obtain instructions on three aspects mentioned in the order. They read as under:

1. Whether the posts in which the petitioners were working are still available?
2. Whether any subsequent appointments were made after termination of the petitioners?
3. In the event of posts not being available and/or the posts are filled up by any other person, what is the amount of compensation the 3rd respondent is intending to offer to the petitioners?

Though counter affidavit is deposed on 30.08.2016, it is silent on the said three aspects sought from the third respondent management.

6. As per the instructions furnished to the learned Government Pleader, the college is successfully running. In the absence of any

specific defence on behalf of third respondent, regarding its difficulty in accommodating the petitioners even though sufficient opportunity was given to it, relief claimed by petitioners cannot be denied.

7. Having regard to the categorical finding of the Commissioner that the order relating to termination was not in accordance with the mandate of the Act and the Rules, the action of the third respondent in not admitting the petitioners to duty is ex facie illegal and amounts to denying the rightful claim of the petitioners for rendering their services as employees of the third respondent.

8. The Writ Petition is allowed with the following directions:

- i. The third respondent is directed to admit petitioners 2,3,5 and 6 forthwith;
- ii. Insofar as first petitioner is concerned, he shall be paid all benefits, to which he is entitled to, consequent to setting aside the order of termination, till he attained the age of superannuation and any other benefits to which he is entitled to after his retirement;
- iii. The benefits to which the 4th respondent was entitled to, consequent to setting aside the order of termination, shall be paid to the legal representatives of the 4th respondent treating him as in service till his death and death benefits after the retirement to which the family is entitled to;

iv. Petitioners 2,3,5 and 6 are entitled to all the consequential monetary benefits till they are reinstated into service.

9. The above order shall be complied within a period of 4 weeks from the date of receipt of copy of this order.

There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

31st August, 2016
sj

