

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.3938 of 2003

ORDER:

This writ petition is filed to issue appropriate direction to respondents to regularize the services of petitioner with effect from 16.04.1990 with all consequential benefits including the arrears of salary from the said date by declaring the order passed by 1st respondent through Memo dated 05.02.2002 as arbitrary, illegal and contrary to judgment passed by this Court in W.P.No.27973 of 1995 dated 14.07.1999.

2. Petitioner herein selected as Lecturer in Botany Department in VSR & NVR College, Tenali, Guntur District and that her services were not regularized on the ground that Government was not there in the Selection Committee on the date of selection. As there was no response to her representations, she approached this Court and filed W.P.No.4346 of 1988 challenging the inaction of Government and the said writ petition was disposed of in December, 1993. According to petitioner, number of other lecturers working in different colleges have approached this Court on the same ground and this Court disposed of the entire batch directing the Government to consider the cases of petitioners and in pursuance of such direction, G.O.Rt.No.75 Education (CE.II-1) dated 27.07.1995 was issued. According to petitioner, her services were regularized in pursuance of said G.O. from 01.07.1996 instead of regularizing from 16.04.1990. According to petitioner, the impugned order regularizing her services from 01.07.1996 is contrary to the conditions of G.O.Rt.No.75 dated 27.07.1995 and that she is entitled for regularization and consequential benefits from 16.04.1990. Respondents for the reasons best known to them did not extend the benefit to petitioner by giving the benefits from 16.04.1990 and therefore, a direction be given to respondents to regularize her services with effect from 16.04.1990.

3. Respondents filed counter disputing the affidavit averments of petitioner and contended that from the date of appointment of petitioner till date of issue of G.O.Rt.No.75 dated 27.07.1995, there was no post to accommodate petitioner and therefore admitting her against a post that had already enjoyed grant in aid would lead to double payment and that the same would be against rules. It is further contended that already three lecturers of the same college were rendered surplus awaiting shifting to needy colleges, however on receipt of G.O.Rt.No.75 dated 27.07.1995 efforts were made to post petitioner in one of the nearby colleges where a vacancy arise and therefore petitioner was shifted to S.V.Degree College, Giddalur, and after identifying the vacancy in one of the aided institutions, it was noticed that vacancy of lecturer in Botany fell from 01.07.1996 at A.N.R. College, Guduwada, and that vacancy was given to petitioner and her services were regularized from 01.07.1996 in terms of G.O.Rt.No.75 dated 27.07.1995. The claim of petitioner that she is entitled for regularization of services with effect from 16.04.1990 is not at all correct. It is further contended that petitioner was rightly regularized from 01.07.1996 as per the vacancy and the writ petition is devoid of merits and liable to be dismissed.

4. Heard both sides.

5. Advocate for writ petitioner submitted that as per G.O.Rt.No.75 dated 27.07.1995, petitioner has to be regularized from 16.04.1990 or the date when aided vacancy arose and the aided vacancy in the college of petitioner i.e., VSR & NVR College had arisen on 19.01.1993 on the retirement of one Smt.K.Krishna Kumari and order passed by respondents regularizing her service from 01.07.1976 is contrary to the provisions of G.O.Rt.No.75 dated 27.07.1995, therefore, respondents have to be directed to regularize the services of petitioner atleast from 19.01.1993, the day on which Smt.K.Krishna Kumari retired in the parent college i.e., VSR & NVR College, Tenali. On the other hand, advocate for respondent submitted that the entire claim of petitioner as per her affidavit is she is entitled for

regularization from 16.04.2000 and this retirement aspect of Smt.K.Krishna Kumari is newly raised at the time of arguments only without any material. He further submitted that nothing is filed before the Court to show the seniority of the aided lecturers working in VSR & NVR College including Smt.K.Krishna Kumari. He submitted that without any material, on the basis of oral submissions, petitioner cannot get the relief and that contention of advocate for petitioner is not at all tenable.

6. I have perused the material papers including G.O.Rt.No.75 dated 27.07.1995. In this G.O., the Commissioner of Collegiate Education was directed to regularize services of petitioner herein by admitting her to aided post with effect from 16.04.1990 or the date when aided vacancy arise. As seen from the affidavit of petitioner, her claim is to regularize her services from 16.04.1990 and that as per G.O. she is entitled for regularization of her service from 16.04.1990. From a plain reading of G.O., it is clear that the regularization must be with effect from 16.04.1990 or the date when aided vacancy arise. From the counter filed on behalf of respondents, it is evident that to help the petitioner herein, she was transferred to a nearby college and her case was considered in the retirement vacancy of ANR College, Gudiwada, where a clear vacancy arose on 01.07.1996 from which date her services were regularized and she was paid salary and emoluments with effect from 01.07.1996. When such a counter affidavit is filed, no reply affidavit is filed disputing the affidavit averments of Joint Director of Collegiate Education, who filed affidavit stating that the services of petitioner were regularized from 01.07.1996 in compliance of G.O.Rt.No.75 dated 27.07.1995 and also in compliance of the Contempt Case No.422 of 2000 in W.P.No.27973 of 1995 dated 10.09.2001. As rightly pointed out by learned Government Pleader for Higher Education the present claim of petitioner that she has to be regularized with effect from 19.01.1993 in the retirement vacancy of Smt.K.Krishna Kumari is a new point urged only at the time of argument without any material. The petitioner has not even filed additional affidavit claiming this relief

of regularization with effect from 19.01.1993 on the ground that she has to be considered in the retirement vacancy that arose in her parent college i.e, VSR &NVR College, Tenali. As rightly objected by learned Government Pleader without producing the seniority list of the aided lecturers in the parent college i.e., VSR & NVR College, Tenali, it is not possible to examine the case of petitioner as raised for the first time at the time of arguments without there being any material. For these reasons, I am of the considered view that petitioner is not entitled for the regularization with effect from 16.04.1990 as claimed in the writ petition and with regard to her claim from 19.01.1993 there is absolutely no material to support her claim.

7. For these reasons, this writ petition is dismissed as devoid of merits.

8. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

1st February 2016

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