

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.8486 of 2001

ORDER:

The petitioners 1 to 5 filed the present writ petition challenging the impugned notice issued by the 4th respondent, terminating the services of the petitioners stating that their appointments were not done in accordance with the procedure laid down in G.O.Ms.No.524 dated 19.12.1988, as arbitrary and illegal.

2 a) The case of the petitioners is that 1st petitioner—V.Chandra Mouli who passed B.Sc. B.Ed., was appointed as B.Ed. Assistant; 2nd petitioner—C.Bala Gurrappa who possessed TTC, was appointed as Second Grade Assistant; 3rd petitioner—P.C.V.Mahanandi who passed SSC, was appointed as Lab Technician; 4th petitioner—Y.Ramasubbaiah, who is a post-graduate in M.A. B.Ed., was appointed as Secondary Grade Assistant and 5th petitioner—Y.Narayana who qualified post-graduate degree in M.A., B.Ed., was appointed as Secondary Grade Assistant in the 4th respondent—School on 07.10.1993 in unaided posts through selection process and since then they are working as such.

b) While so, the 4th respondent issued impugned notice which was served on the petitioners on 10.04.2001 to show cause as to why their services could not be terminated, as their appointments were not in accordance with the procedure laid

down in Rule 15 of G.O.Ms.No.524 Education dated 19.12.1988.

c) The further case of the petitioners is that 4th respondent— School after following due selection process only appointed them in the posts and they are in service for the past 8 years and discharging their duties with utmost satisfaction of the management and the student community and they are under the *bona fide* impression that in future, the Government may admit the posts held by them in grant-in-aid. It is also submitted that some of them are over-aged and cannot seek any alternative employment elsewhere. It is also submitted that 4th respondent is not empowered to terminate their services at this distance of time. It is further submitted that in similar circumstances when the 4th respondent sought to terminate the services of similarly situated candidates, they approached this Court by way of filing W.P.No.33549 of 1998 wherein this Court granted interim orders.

3) This Court while admitting the Writ Petition on 26.04.2001, initially granted interim direction to the respondents to continue the services of the petitioners till 15.06.2001 and thereafter, the said interim order was made absolute.

4) Respondents 1 to 3 have filed their counter along with vacate stay petition i.e, W.V.M.P.No.2714 of 2002. Their case is that the 4th respondent school is enjoying grant-in-aid from the Government. There are no sanctioned posts in the said school

and in such case, the management cannot conduct interviews and appoint the petitioners. Further, the petitioners were not selected by the Staff Selection Committee constituted as per Rule 15 of G.O.Ms.No.524 Education dt:19.12.1988. As per the said rule, the Staff Selection Committee should be constituted with the following members:

- 1) President of the Educational Agency
- 2) Secretary/Correspondent/Manager of the Educational Agency
- 3) Headmaster/Principal of the School
- 4) Elected representative of non-teaching staff
- 5) Elected representative of non-teaching staff (only in case there are more than five non-teaching staff appointed in the school)
- 6) President of Parent Teachers Association
- 7) The Vice President of the Parent Teachers Association.
- 8) One representative of the D.E.O.

In the case of the petitioners, the Staff Selection Committee was not constituted as per Rule 15 of G.O.Ms.No.524 Education dt:19.12.1988. Thus the respondents 1 to 3 contended that the appointment of the petitioners is not tenable as they were appointed by the 4th respondent and therefore, the 4th respondent itself terminated the services of the petitioners. There is no master and servant relationship between R.1 and the petitioners. Their appointments were not approved by the competent authority. The Correspondent illegally appointed the Teaching and Non-teaching staff and he has not informed to the

District Educational Officer. Thus, they sought for dismissal of the writ petition.

5) When the matter came up for hearing on 20.11.2015, there was no representation for petitioners. Hence, heard arguments of learned A.G.P for School Education on behalf of respondents 1 to 3. Though notice to respondent No.4 was served but there is no representation on its behalf.

6) Now, it came to the notice of this Court that the above W.P.No.33549 of 1998 referred by the petitioners was filed by some of the similarly placed teachers in 4th respondent—School against the present respondents 1 to 4 for the same relief and in that writ petition, the learned Judge of this Court passed the following order on 09.10.2002:

“The grievance of the petitioners is that they have been appointed in unaided posts through selection process. Now it appears that the Government had issued G.O.Ms.No.301 dt:25.09.1997 to regularise the appointments made irregularly.

It is brought to the notice of the Court that in similar matters a learned Judge of this Court directed the respondents to consider the case of the petitioners therein in accordance with G.O. dt:25.09.1997. In the circumstances, this writ petition is also disposed of directing the respondents to consider the case of the petitioners herein in accordance with G.O. dt:25.09.1997 or any other G.O., circular or policy existing as on today. No costs.”

7) Since the case of the present writ petitioners falls under the same footing, this Writ Petition is also disposed of in terms of the order dt:09.10.2002 passed in Writ Petition No.33549 of

1998. No order as to costs.

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

U.DURGA PRASAD RAO, J

Date: 22.01.2016

Murthy/scs