

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT PETITION No.19631 OF 2016

Date: 21.06.2016

Between:

Mandati Tirupathi Reddy S/o Late Ananthaiah
Occ: Lecturer Category of Junior
Lecturer in Telugu in SVKP composite Aided College,
Markapur, Prakasam district

.....Petitioner

And

The State of A P
Rep by its Principal Secretary
Higher Education (CEII-I) Department
Secretariat, Hyderabad and others

.....Respondents/
Respondents.

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
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PC: *(Per the Hon'ble Sri Justice P.Naveen Rao)*

In this writ petition, petitioner challenges the order of Lokayukta closing the complaint filed by petitioner.

2. Petitioner joined service on 26.3.1980 as sweeper in SVKP College, Markapur, Prakasam district. While in service, he improved his academic qualifications and based on his eligibility, he seem to have been appointed as Junior Lecturer vide the orders of the Government in G.O.Ms.No. 08 Education dated 2.2.2001. As a consequence to the retirement of the incumbent, steps were taken to fill up post of Principal of the college. On relative assessment of eligibility of the candidates based on seniority, 7th respondent who was working as Lecturer in Zoology, was promoted as Principal.

3. The said promotion of the 7th respondent was challenged by the petitioner in W P No. 15453 of 2013. It was contended that while computing the seniority, the entire length of service of an employee has to be counted and in terms thereof, the service of the petitioner as sweeper ought to have been counted and while determining the seniority and in said manner petitioner ought to have been declared as senior to 7th respondent and ought to have been considered for promotion as Principal in preference to 7th respondent. The said contention was rejected and writ petition was dismissed. Aggrieved thereby, petitioner filed Writ Appeal No. 872 of 2013. The Division Bench noticed that petitioner became Junior Lecturer on 2.2.2001 whereas 7th respondent was appointed as Aided Lecturer on 27.12.1982 and therefore 7th respondent is senior. The Division Bench also held that initial appointment in the sweeper cadre cannot be counted for the purpose of computation of seniority and service rendered in the cadre of Junior Lecturer alone can be considered and taking the relevant dates of appointment as Junior Lecturers, 7th respondent is senior. Holding so, the Division Bench affirmed the decision of the learned single Judge. Aggrieved thereby, petitioner filed Special Leave to Appeal (Civil) 27379 of 2013 and by order dated 13.9.2013, SLP was dismissed. Petitioner filed review against

the decision in the SLP. The said Review was considered and dismissed by order dated 8.7.2014. It appears petitioner also filed curative petition but the same was also dismissed by order dated 22.7.2015.

4. Petitioner complained to the Lokayukta that he was illegally ignored for promotion to the post of Principal and person who is not eligible was promoted, almost raising similar contentions as raised before this Court in the earlier round of litigation.

5. Before the Lokayukta, petitioner sought to grant the following prayer.

“I humbly pray that this Institute of Lokayukta of Andhra Pradesh as I am fell into great loss:

1. Unauthorisedly the G.O.Ms.No.47 dated 14.5.2007 is not applicable to me with this issue reject proceedings No. 160 Administration.II-I/2013-1, dated 20.6.2013 to set aside the proceedings and suspend the Minutes of the Department Promotion Committee unauthorized proceedings R.C.No. 160/Administration.II-1/2013 dated 4.4.2013 Head on 16.4.2013 11.30 hrs and Commission of College Education passed approval and from 1.4.2013 to grant relaxation the promotion of Committee proceisure G.O.Ms No. 127 Education dated 7.6.1993 accorded 1.4.2013 to issue the Principal post with salary orders and pass such other order or orders.

OR

2. Relax the Department of Promotion Committee procedure from 1.4.2013 to promotion to allot to me for the post Principal with salaries and set aside the proceedings R.C.No.160/Administration.II-I, dt. 20.6.2013 and proceedings R.C.No.160/Administration-II-1/2013, dated 4.4.2013 and OPC HEALTH on 16.4.2013 and 11.30 hrs and approval issued by the Commissioner of College Education or dismissed. Hence this prayed.”

6. In the report filed by the Regional Joint Director of Collegiate Education, Guntur, it was averred that the petitioner has earlier instituted writ petition on the same issue ultimately ended in dismissal of SLP. Having noticed earlier litigation, Lokayukta closed the complaint holding that Lokayukta cannot go into the complaint once the issue attained finality by the decision of Apex Court. Challenging the said order, this writ petition is filed.

7. Admittedly, the claim made before the Lokayukta is a service

grievance and petitioner has been prosecuting his service grievances before this Court in several rounds of litigation and latest writ petition in the series of writ petitions instituted by him is W.P. No. 30118 of 2014. It appears, as averred by the petitioner in para-9 of the affidavit, in W.P.No.30118 of 2014, petitioner questioned the proceedings Rc.No.160/ Admn.II.I/2013-1, dated 20.06.2013 of the Commissioner of Collegiate Education, rejecting his claim for promotion.

8. Thus, on the very same prayer sought before the Lokayukta, writ petition is pending consideration of this Court. The grievance of the petitioner against the decision of the Commissioner of Collegiate Education is yet to be decided by this Court.

9. Having regard to the history of litigation and the orders passed by this Court and Supreme Court, we do not see any error in the order of the Lokayukta refusing to entertain the complaint. It cannot be said that Lokayuktha has not applied his mind to the nature of grievance projected before him. Writ Petition is accordingly dismissed.

10. A bare perusal of the complaint filed before the Lokayukta, it is seen that petitioner has serious grievance in the composition of the Selection Committee which selected Sri B.David Stone and ignored the petitioner, more particularly against one member. However, no relief was sought against the said person and relief sought was against denial of promotion by not considering relevant orders of the Government and considering the orders which have no application.

11. It is made clear that there is no expression of opinion on merits of the claim and dismissal of writ petition does not disentitle the petitioner from agitating in the pending writ petition. It is also made clear that having regard to the allegations made by the petitioner in the complaint filed before Lokayukta against one of the members of the selection committee, it is left open to the petitioner to pursue remedies, as available in law against said grievance, if so advised.

Miscellaneous petitions, if any, stand dismissed. No costs.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

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