

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL.

W.P.No.3664 of 2004

Oral Order:

This writ petition has been filed seeking Writ of Mandamus declaring the Memo No.799/P.S.1/2004-1 dated 9.2.2004 issued by the 1st respondent-Government to the extent of the direction to consider the case of the petitioner prospectively subject to condition that there are no eligible candidates in the feeder categories in the School/Management, as illegal, arbitrary, contrary to the proceedings of the 2nd respondent-Regional Joint Director of School Education, Warangal dated 30.12.2003 and letter of the 3rd respondent-District Educational Officer, Warangal dated 17-5-2003 and violative of the principles of natural justice and consequently direct the respondents to ratify the promotion of the petitioner in the post of School Assistant with effect from 12.11.2002 on which date the petitioner has been promoted.

Facts in brief are that the petitioner joined the 4th respondent institution on 1.11.1984 as Junior Assistant and was working as such. One Mrs.K.Helen, who was working as School Assistant in the 4th respondent-

institution expired on 6.2.1998 and consequently there was a vacancy. The 4th respondent-institution considering the candidature of the petitioner who was otherwise eligible for promotion to the post of School Assistant promoted the petitioner as School Assistant in the vacancy with effect from 12.11.2002. The said proposal was submitted to the 3rd respondent-District Educational Officer, Warangal for ratification.

The 3rd respondent-District Educational Officer, Warangal vide proceedings dated 17.5.2003, after conducting requisite enquiry, has recommended to the 2nd respondent-Regional Joint Director of School Education, Warangal for promotion of the petitioner as School Assistant with effect from 12.11.2002, on which date the petitioner was promoted as School Assistant by the 4th respondent-institution. Acting on the said letter from the 3rd respondent-District Educational Officer, Warangal, the 2nd respondent-Regional Joint Director of School Educational, Warangal vide proceedings dated 30.12.2003, sought for clarification from the Government as to whether promotion of the petitioner to the post of School Assistant

from the post of Junior Assistant as made by the 4th respondent-institution be approved.

In pursuance of the said clarification sought for by the 2nd respondent-Regional Joint Director of School Education, Warangal, the 1st respondent-Government issued memo No.799/P.S.1/2004-1 dated 9.2.2004, which reads as under :

“ In the circumstances reported by the Regional Joint Director of School Education, Warangal in the reference 3rd cited, Government after careful consideration hereby clarified that the promotion of Sri D. Nathaniel, Junior Assistant, Preston Institute, Jangaon, Warangal to the post of School Assistant be considered **prospectively as a special case** subject to the condition that there are no eligible candidates in the feeder categories in the school/management.

The Regional Joint Director of School Education is requested to take necessary further action in the matter.”
(emphasis supplied)

The grievance of the petitioner is that the Government ought not to have passed the orders ratifying the promotion of the petitioner as School Assistant prospectively, whereas it ought to have given retrospective ratification that is from 12.11.2002 on which date the

petitioner was promoted as School Assistant. The 5th respondent who was working as a Secondary Grade Teacher, subsequently acquired the qualification to the post of School Assistant and made application for appointment as School Assistant. Since she acquired the qualification after ratification orders issued by the Government, her candidature was not considered. It is reported that the 5th respondent retired from service on 31.3.2015.

It is contended by the petitioner that the reason as to why the Government has ratified the action of the 4th respondent-institution in promoting the petitioner prospectively is not spelt out in the impugned order and the action of the 4th respondent in promoting the petitioner with effect from 12.1.2002 cannot said to be an irregular or improper, therefore the Government ought to have ratified the action of the 4th respondent-institution by promoting retrospectively from 12.11.2002 on which date the 4th respondent-institute has promoted the petitioner and sent the proposal for ratification.

Heard the learned counsel for the petitioner, learned counsel for the respondents and the learned Government

Pleader for School Education.

After hearing the learned counsel on either side, and on perusal of the material available on record, I feel it proper to direct the petitioner herein to approach the 1st respondent-Government by way of representation seeking to ratify the promotion retrospectively with effect from 12.11.2002 and on such representation being filed, the same shall be considered and disposed of by passing appropriate orders, as per law, within a period of two months from the date of receipt of copy of this order.

With the above directions, the writ petition is disposed of. No costs. Miscellaneous Petitions if any shall stand closed.

JUSTICE M.S.K.

JAISWAL

Dated: 6-1-2016

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