

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.22291 & 23747 of 2015 AND 4296 of 2016

COMMON ORDER:

All these cases are interconnected and they relate to appointment to the posts of Assistant Professor in the petitioner college in W.P.No.6577 of 2013.

2. W.P.No.6577 of 2013 was filed by the management of the college challenging G.O.Ms.No.35, dated 27.03.2006, issuing a blanket ban and not permitting the petitioner to fill up existing aided vacancies which arose in the year 2004.

3. This Court, by order dated 26.04.2013, directed the respondents to take necessary steps to fill up half of the vacant posts of Teachers in Arabic existing in the petitioner institution within three months. Consequently, a notification was published inviting applications for the post of Assistant Professor in Arabic, and challenging the same, W.P.No.791 of 2015 was filed by three petitioners, out of whom, the first petitioner was working as Lecturer in Arabic in another college and petitioners 2 and 3 were working as Lecturers in English and History. Initially, in the said writ petition, an order was passed on 22.01.2015 stating that no further appointments shall be made, but after filing WVMP.No.753 of 2015, the interim order dated 22.01.2015 was modified giving liberty to the management to proceed further in pursuance of the impugned notification and finalise appointment of three posts of Lecturers in Arabic. So far as petitioners 2 and 3 therein are

concerned, the same had to be adjudicated, as no steps were taken to fill up the vacant posts in English and History and there was no threat of their claim.

4. Subsequently, a Selection Committee was constituted and when the name of the third respondent in W.P.No.22291 of 2015 was not approved, the management of the college filed the said writ petition challenging the action of the respondents in not approving the candidate recommended by the Selection Committee. In the said writ petition, though initially an order was passed on 28.07.2015 directing the second respondent to grant permission to appoint the selected candidate in Arabic post without prejudice to the claim made by the petitioner in W.P.No.6577 of 2013, making it clear to the selected candidates that appointment would be subject to final outcome of the writ petition, the said order was modified by permitting the respondents to appoint respondents 1 and 2 from out of the selected list.

5. There was no dispute with regard to appointment of candidates 1 and 2 in the select list, but when the fourth respondent in W.P.No.23747 of 2015 was selected in respect of three vacancies, the said writ petition was filed challenging his selection. Another writ petition was filed by the selected candidate challenging the action of the respondents in not filling up of the vacancy of the post of Lecturer in Arabic which arose on 31.10.2015 in W.P.No.4296 of 2016. Thus, the three cases

relating to the appointments only are taken up together and they related to the post of Lecturer in Arabic.

6. There is no dispute with regard to issuance of a notification for filling up of three vacancies which arose in the petitioner college in W.P.No.22291 of 2015. Though there were six vacancies, by virtue of the interim order of this Court, the notification was issued only in respect of three vacancies of the post of Lecturer in Arabic. There is no dispute with regard to selection of two candidates who stood at serial Nos.1 and 2 in the selected list. The only dispute is with regard to the candidate at serial No.3, who is the petitioner in W.P.No.4296 of 2016 and his selection was contested by the petitioner in W.P.No.23747 of 2015. The petitioner in W.P.No.23747 of 2015 is a Post Graduate with Ph.D qualification, whereas the petitioner in W.P.No.4296 of 2016 is a Post Graduate with NET qualification. The qualifications prescribed for the post of Lecturer in Arabic as per the notification are MA (Arabic) with minimum 55% marks and NET/SLET or Ph.d in concerned subject. Apart from those qualifications, the desirable qualifications are mentioned as follows:

“Desirable Qualification:

1. Medium of instruction as Arabic or should possess Arabic as optional subject at graduation level.
2. M.A Languages (Arabic)
3. Experience of teaching at graduation & P.G. Level.
4. Experience of writing books or any article published in news.
5. Teaching experience in Oriental College will be preferred.”

7. The method of awarding marks by the Selection Committee are contained in G.O.Ms.No.12, Higher Education Department, dated 10.01.1992. Apart from other rules, the selection procedure is stated as follows:

“SELECTION PROCEDURE:

Ranking of candidates shall be done on the basis of marks secured in the following from out of 100 marks.

- i) Weightage of marks for academic record of the candidates - 50 marks

ACADEMIC RECORD MEANS

- a) For marks secured in the P.G Degree - 40 marks
 b) For M.Phil/Ph.D - 5/10 marks
- ii) Teaching Experience - 10 marks
 (1 mark for each completed six months of service)
- iii) Teaching Test - 40 marks
- Total - 100 marks”

8. The petitioner in W.P.No.4296 of 2016 was awarded total marks of 73.00, whereas the petitioner in W.P.No.23747 of 2015 was awarded total marks of 72.20 by awarding marks of 5 for the Ph.D qualification possessed by him. The same is contested by the petitioner stating that as per G.O.Ms.No.12, dated 10.01.1992, he is entitled for 10 marks instead of 5 marks and if 10 marks are awarded, he gets 77.20, more than the marks secured by the petitioner in W.P.No.4296 of 2016 and he is entitled for being considered for the post of Lecturer in Arabic.

9. In view of the clear language and procedure indicated in G.O.Ms.No.12, dated 10.01.1992, this Court has no hesitation to come to the conclusion that the point raised by the petitioner in W.P.No.23747 of 2015 deserves to be considered. The

language of the said GO is clear with regard to award of marks. The petitioner in W.P.No.23747 of 2015 is having Ph.D and accordingly he should be awarded 10 marks for such qualification, but he was given only 5 marks which is irregular. If the mistake is corrected, he gets 77.20 marks and entitled to be appointed in the place of fourth respondent. Accordingly W.P.No.23747 of 2015 is allowed and W.P.No.4296 of 2016 is dismissed. In that view of this, no further orders need be passed in W.P.No.2291 of 2015.

10. It is vehemently argued by the learned counsel for petitioner in W.P.No.4296 of 2016 that the marks awarded by the Selection Committee cannot be reviewed by this Court. But, this Court opines that such an argument is based on misconception. There is no scope for the Selection Committee to exercise its discretion and G.O.Ms.No.12, dated 10.01.1992, is very clear with regard to basis for awarding marks. Since the point raised in W.P.No.23747 of 2015 is with regard to awarding of marks for the Ph.D qualification held by candidates in accordance with said GO, as already held above, this Court is no hesitation to allow said writ petition.

11. Accordingly, W.P.No.23747 of 2015 is allowed and W.P.Nos.22291 of 2015 and 4296 of 2016 are dismissed. No order as to costs. Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 19.09.2016
TJMR