

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.9246 of 2008 & 12556 of 2009

COMMON ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for respondents.

2. Petitioner was appointed as part-time Lecturer in Telugu Department on 18-08-1998 in 3rd respondent college.

3. The 1st respondent issued G.O.Ms.No.362 EDN dt.07-10-1994 to submit proposals for regularization and payment of minimum scale to part-time lecturers/Junior Lecturers working in Private Degree/Oriental and Junior Colleges in the erstwhile combined State of Andhra Pradesh.

4. Thereafter, 2nd respondent by proceedings Rc.1503/JC8-3/94 dt.22-12-1994 directed 3rd respondent to submit annual statement regarding the petitioner for payment of minimum scale from 07-10-1994.

5. Vide G.O.Ms.328 Education (CE_III) Department dt.15-10-1997, 1st respondent proposed regularization of services of part-time lecturers, such as the petitioner, working in private aided degree colleges and junior colleges, but the 2nd respondent by proceedings in Rc.No.Admn-I-B-1/1277/2008 dt.09-03-2009 rejected petitioner's request for regularization w.e.f. 07-10-1994 and for payment of consequential benefits.

6. In the said order, 2nd respondent stated that the petitioner had not been appointed or selected through properly constituted selection committee and her initial appointment was not as per Rules. But she was allowed to draw her pay minimum time scale attached to the post of Junior Lecturer with effect from 07-10-1994 in terms of G.O.Ms.No.362 dt.07-10-1994. He however stated that the petitioner was not considered for admission to grant-in-aid w.e.f. 07-10-1994 against the grant-in-aid post. He stated that she had not been appointed through a properly constituted selection committee. He stated that basing on G.O.Ms.No.328 dt.15-10-1997 and proposal sent by the 3rd respondent and in terms of G.O.Ms.No.328 dt.15-10-1997, the petitioner was regularized by proceedings dt.06-04-1998 w.e.f. 18-04-1998. He pointed out that the petitioner cannot seek regularization with retrospective effect from 07-10-1994 since the scheme of regularization as contemplated under G.O.Ms.No.328 dt.15-10-1997 is only prospective and the Government had also issued a Memo dt.22964/CE-III/1999-5 dt.18-12-2000 to the same effect.

7. Learned counsel for the petitioner contended that this view of 2nd respondent is untenable in view of the fact that the benefit of regularization with retrospective effect was given to staff pertaining to Vizianagaram Junior College. He referred to G.O.Ms.No.375 Education (C.E.III-2) Department dt.20-10-1994 relating to grant-in-aid, wherein the Government adopted the said college along with sections and posts mentioned in the annexure to grant-in-aid

w.e.f. 01-04-1994, the date on which the post where they were employed were admitted to grant-in-aid, which was also confirmed in the order dt.14-02-2005 in W.A.No.1492 of 2000.

8. Learned Government Pleader appearing for the respondents supported the order passed by 2nd respondent and stated that while in the case of Vizianagaram Junior College relied upon by the petitioner, the posts wherein the petitioners therein were employed were admitted to grant-in-aid, but they were not regularized from the date on which they were admitted to grant-in-aid, in the case of the petitioner, she was only a part-time lecturer, and her post was not considered for admission to grant-in-aid in view of the fact that she was not appointed or selected through a properly constituted selection committee and her initial appointment itself was not as per rules. She contended that in spite of the fact that the petitioner was not appointed or selected through properly constituted selection committee, she was not only allowed to draw pay of minimum time scale for the post attached to Junior Lecturer w.e.f. 07-10-1994, but she was also given benefit of regularization pursuant to G.O.Ms.No.328 dt.15-10-1997. She contended that the benefit under G.O.Ms.No.328 is only prospective and the Government had clarified in their Memo dt.18-12-2000 that it would have retrospective effect.

9. From the facts narrated above, there is no doubt that the petitioner's initial appointment as part-time lecturer in the 3rd respondent college was not through properly constituted selection

committee and her appointment was not as per rules, but due to the then policy of the Government, she was allowed to draw pay in minimum time scale attached to the post of Junior Lecturer w.e.f. 07-10-1994 in terms of G.O.Ms.No.362 dt.07-10-1994. She was also regularized with effect from 18-04-1998 by proceedings dt.06-04-1998 by giving her benefit of G.O.Ms.No.328 dt.15-10-1997.

10. The reliance placed by the learned counsel for the petitioner on the judgments of the learned Single Judge in W.P.No.19277 of 1999 and W.A.No.1492 of 2000 is misplaced inasmuch as in those cases, the posts where the petitioners therein were employed had been admitted to grant-in-aid on 01-04-1994 but they were denied the benefit of regularization from that date. But in the case of 3rd respondent-college, the post where the petitioner was working was not admitted to grant-in-aid at the time when the petitioner was appointed on 18-08-1988. Therefore, the petitioner cannot compare her position with the petitioners in the above cases and seek regularization her services from 07-10-1994. Therefore I do not find any arbitrariness in the action of the respondents in rejecting request of petitioner for regularization of her services from 07-10-1994 as claimed by her instead of 06-04-1998.

11. Accordingly, both the Writ Petitions are dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-12-2016
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