

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 15028 of 2006

ORDER:

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Heard Sri P.Govind Reddy, learned counsel appearing for the petitioner, Government Pleader for Higher Education and Sri P.S.R.Chandra Murthy, learned counsel appearing for respondent No.2.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings Rc.No.1056/ Admn.IV-1/94, dated 23.05.2006 of the first respondent as illegal, arbitrary and unconstitutional.

The averments in the affidavit filed in support of the writ petition would show that a notification was issued by the second respondent on 16.04.1994 inviting applications for the post of Library Attender. Pursuant to the said notification, the petitioner herein applied for the said post and underwent the process of selection. He was selected and appointed as Library Attender in the second respondent college vide proceedings No.2/NTS/LA, dated 28.04.1994. From the date of his appointment the petitioner has been discharging his duties with utmost diligence and care to the satisfaction of his superiors. Since the petitioner was appointed in an aided post, the college addressed a letter to the first respondent for approval of the petitioner's appointment. Vide proceedings Rc.No.1056/PCII-4/94, dated 11.08.1994, the first respondent rejected the request to approve the appointment of the petitioner on the ground that the Correspondent has not obtained prior permission of the first respondent and the list of candidates

was not drawn from the concerned employment exchange. Aggrieved by the same, the petitioner herein filed W.P.No.19028 of 1994. By an order, dated 27.03.2003, this Court found that the rejection of the approval and the consequential discontinuance of the petitioner's services are illegal and the same were set aside. Challenging the same, the first respondent preferred a Writ Appeal No.814 of 2004, which was disposed of on 09.03.2006. The relevant portion of the order is as under:

“In the circumstances, to avoid any further delay and as rightly submitted by the learned Government Pleader, the impugned order dated 11.08.1994 itself can be treated as showcause notice to which both the respondents can file their respective explanations within a period of four (04) weeks from today and on receipt thereof, the appellant shall consider the same and pass orders on merits in accordance with law within a period of two (02) months thereafter. Consequently, the letter dated 22.09.1994 stands set-aside leaving it open to the appellant and the second respondent/management to pass fresh order in terms of the order of this Court. Subject to the above, the writ petition is disposed of. No costs. It is needless to mention that failure to submit any explanation during the period as stated above, the impugned order dated 11.08.1994 holds good. It is further made clear that if no order is passed in spite of the explanation filed, it shall be deemed that the permission is already granted.”

Pursuant to the said orders, the petitioner herein submitted his explanation within the time prescribed, but the impugned order came to be passed rejecting the request on the ground that the petitioner has failed to submit his explanation within the time stipulated. Challenging the same, the present writ petition came to be filed.

Learned counsel for the petitioner mainly submits that the

reason for rejecting the request of the petitioner on 23.05.2006 on the ground that he has failed to submit his explanation within the time stipulated by the Division Bench is absolutely incorrect. He took me through various documents to show that the explanation was submitted within the time prescribed and in order to overcome the order of the Division Bench the respondents are said to have issued the impugned proceedings. Learned Government Pleader for Higher Education however opposes the same.

A perusal of the material on record would show that the Director of Collegiate Education, Hyderabad, after referring to the orders of this Court in W.P.No.19028 of 1994 and W.A.No.814 of 2004 rejected the request of the petitioner as under:

“In the light of the orders passed by the High Court, the respondents viz., Sri T.Muralidhar Rao and the Secretary and Correspondent of Matrusri Oriental College, Jillalamudi, have to file their respective explanations within a period of four weeks from 09.03.2006 and on receipt thereof, the Appellate Commissioner of Collegiate Education shall consider the same and pass orders on merit, in accordance with law within a period of two months thereafter. The respondents ought to have submitted their explanations as ordered by the High Court, within the stipulated time but they did not do so. Therefore, the orders issued in the CCE’s Procs.Rc.No.1056/PC.II-4/94 dated 11.08.1994 holds good and therefore they become final.”

A perusal of the copy of the explanation which has been filed before this Court clearly indicate that the explanation dated 18.03.2006 was acknowledged by the Director of Collegiate Education on 27.03.2006. Apart from that the petitioner herein also sent the said explanation through Registered Post with

Acknowledgment Due which was received in the office of Commissioner, Collegiate Education on 21.03.2006. Therefore, rejecting the request on the ground that the petitioner failed to submit his explanation within the time stipulated by the Division Bench, cannot be accepted.

In view of the above, the impugned order dated 23.05.2006 is set aside and consequently the first respondent is directed to consider the explanation dated 18.03.2006 made by the petitioner and pass orders in accordance with law, within a period of four (04) weeks from the date of receipt of a copy of this order. If the said explanation is not available, the first respondent can issue a notice calling upon the petitioner to give a copy of the explanation and after submission of a copy of such explanation, the respondent shall pass orders within a period of four weeks thereafter. In case, the said explanation is not considered within the period prescribed above, it shall be deemed that permission is accorded as per the observation of the Division Bench in Writ Appeal No.814 of 2004.

Accordingly, the writ petition is allowed. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

07.01.2016
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