

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

Writ Petition Nos. 23884 of 2012 and 37861 of 2012

WP No.23884 of 2012

Between:

Dr. C. Karthikeyan and others

...Petitioners

and

Sri Venkateswara Vedic University,
Rep. by its Registrar,
Tirupathi and another

...Respondents

JUDGMENT PRONOUNCED ON : 23.09.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1.

Whether Reporters of Local newspapers may be allowed to see the Judgments?

:

YES
2.

Whether the copies of judgment may be Marked to Law Reporters/Journals?

:

NO
3.

Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?

:

NO

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos. 23884 of 2012 and 37861 of 2012

Common Order:

These two Writ Petitions are being disposed of by this common order.

WP No.23884 of 2012 was filed by three petitioners challenging the issuance of notification for walk-in-interviews proposed to be held on 04.08.2012 for the posts of Guest Lecturers in respect of Saiva Agama and Pancharatragama subjects of the first respondent-University.

The said petitioners along with others filed WP No.37861 of 2012 challenging the Notification Nos.2012(1) and 2012(2) dated 17.11.2012 issued in respect of the post of Assistant Lecturer in Kanva Sukla Yajurveda, Saiva Agama, Pancharatra Agama and in Vaikhanasa Paurohityam without finalising the posts advertised in Notification No.3, dated 29.11.2008 in respect of Lecturers in Shukla Yajurveda (Kanva), Pancharatra Agama, Shaiva Agama, Vaikhanasa Pourohityam and Chandas Sastra.

This Court, while admitting WP No.23884 of 2012 on 03.08.2012, directed the respondents to maintain *status-quo* with regard to petitioners' services are concerned.

In WP No.37861 of 2012, this Court, by an order dated 10.12.2012 held that the process of selection pursuant to the impugned notification may go on, however appointments shall not be finalised until further orders.

Now the first respondent filed counter affidavits along with vacate petitions seeking vacation of the said orders and after hearing the learned counsel on both sides these Writ Petitions are being disposed of.

The case of the petitioners is that the petitioners 1 and 4 in WP No.37861 of 2012 were initially appointed by the second respondent Tirumala Tirupathi Devasthanams vide proceedings dated 12.05.2008 and they were appointed as Lecturers in the Department of Saiva Agama and Sukla Yajurveda. While they were working as such, the first respondent-University issued a notification in the year 2008 and they applied for the said post along with others in WP No.37861 of 2012 and all were appointed as Lecturers in respective departments. The notification was issued for filling up of the posts on permanent basis and extending the UGC scales of pay. But, when they were appointed it was intimated that their appointment was on adhoc basis for a period of one year. However, they were being continued. The 9th Executive Council of the first respondent-University, in its meeting held on 10.07.2010, noticed that in respect of 67 posts that were advertised in the year 2008, the candidates in 25 posts were selected on regular basis and the filling up of 42 posts were left out. It is also stated that 10 teachers were appointed on adhoc basis for one year. The petitioners were being paid salaries. While so, a circular was issued on 28.04.2012 stating that summer vacation starts from 01.05.2012 and it would end on 06.06.2012 and the services of the petitioners were not required during the said vacation period. The first respondent also issued a notification calling for walk-in-interviews for the posts of Guest Lecturers and when they filed WP No.23884 of 2012, an interim order was passed by this Court directing the respondents to continue the services of the petitioners therein. The first respondent also

extended the UGC scales of pay in respect of some candidates who were selected along with the petitioners in the year 2008. It was also stated that contrary to the instructions of the Government of India, Ministry of Human Resources Development, the Vice-Chancellor of the first respondent-University issued the notification when he was due to retire on 04.01.2013. In those circumstances, they challenged the notification for walk-in-interviews in respect of the posts held by them.

Initially, a counter affidavit was filed by the first respondent stating that the petitioners were appointed purely on temporary/adhoc basis with consolidated pay through proceedings dated 16.06.2009 and they are estopped from making any claims after accepting their position as Lecturers on adhoc basis. The petitioners are unsuccessful candidates pursuant to the earlier notification and they have not applied under the impugned notification. The selection process under the earlier Notification No.3 dated 29.11.2008 was completed in the year 2009 itself. It was admitted that the first respondent issued a notification inviting applications for various posts in the year 2008 and the petitioners along with others applied for those posts. In the selection process, the selection committee filled up only 25 posts out of 67 posts notified on permanent basis. Rest of the posts notified were not filled up on permanent basis for want of eligible and suitable candidates. The Selection Committee found the candidature of the petitioners and others as not suitable, eligible and qualified as they lack deep knowledge in the respective subjects. However, in order to continue the activity of the University which was established for the first time, the Executive Council took a decision to appoint the petitioners and others purely on temporary/adhoc basis for one year with consolidated pay of Rs.20,580/-. The petitioners accepted

the same and have been working as such. The petitioners submitted a representation on 27.06.2011 to make their posts permanent and it clearly shows that their appointments were on adhoc basis. During 2010-2011 their services were utilised during summer vacation only for non-academic work and they were not paid any remuneration for 2012 on account of audit objection raised by the Audit Department. In fact, the adhoc services of the petitioners were terminated with effect from 01.05.2012 through resolution dated 30.04.2012. Though a circular dated 28.04.2012 was issued with regard to dispensing with the services of the petitioners during summer vacation, it was done by mistake/over sight as there was no need for issuing such circular in respect of adhoc lecturers. Another circular was issued on 30.04.2012 making it applicable to adhoc lecturers. However, the services of the petitioners 1 to 3 were continued by virtue of the interim orders of this Court in WP No.23884 of 2012. It is further stated that learning or reciting Vedas cannot be termed as eligibility or qualifications. One should be able to understand the meaning of recitation and able to convey it to the students. The persons like the petitioners who are having knowledge of recitation cannot be termed as eligible or qualified persons. The petitioners having not applied pursuant to the present notification, lost the opportunity to compete with other candidates.

Additional counter affidavit was filed stating that UGC scales of pay are applicable to the permanent as well as temporary posts. The UGC Regulations issued in 2010 deal with the appointments on contract basis. The selection committee after reviewing the eligibility and performance in the interviews recommended their case for appointment on adhoc basis only. The notifications which were issued for appointment of Guest

Lecturers have nothing to do with the posts held by the petitioners. The Executive Council of the University in its meeting held on 14.09.2012 and 10.07.2014 did not accede to the request of regularization of their services and resolved to issue notification for filling up of the posts on regular basis. The remuneration of adhoc Lecturers was increased from Rs.20,580/- to Rs.26,000/- from July 2015. In view of the interim orders passed by this Court, the University stopped recruiting the Lecturers notified in the above notification and no action is taken. In view of the stoppage of recruitment process, the activity of the University is badly affected.

In the light of the above averments, it has to be seen whether the appointments of the petitioners were on adhoc basis or on regular basis pursuant to the notification issued in 2008 and whether the petitioners are entitled for any relief in the present Writ Petitions.

Sri Venkateswara Vedic University Act, 2006 (for short 'the Act') was passed by the Andhra Pradesh Legislative Assembly for establishment of Vedic University and for matters connected therewith. The objectives of the University are specified in Section 4 of the Act. The powers and functions of the University include holding of examinations and conferring degrees, diplomas, certificates or other academic distinctions. It also enables the instruction in different branches of Vedic knowledge inclusive of Vedadhyayanam, Archakatvam, Paurohityam, Divya Prabandham and professions as the University may determine. Section 26 deals with the Statutes and it says that the Executive Council have power to make Statutes for the matters specified therein. It includes the prescription of qualifications of the teachers and other persons employed by the

University keeping in view the uniqueness of the objectives and requirements of the University. Statute 10 provides for constitution of the selection committee with regard to appointment of teaching staff consisting of the Vice-Chancellor who shall be the Chairman; three experts from outside the University to be nominated by the Vice-Chancellor from out of the panel approved by the Executive Council; one nominee of the sponsoring institution and the Head of the Department concerned. It provides that no teacher holding the post lower in rank than the one to which appointment is to be made shall be member of selection committee.

This Court called for the minutes of the Executive Council meetings of the University and a perusal of the same indicated that the academic activity of the University started on 22.07.2006. 53 qualified students in different subjects like Rigveda, Krishna Yajurveda, Shukla Yajurveda, Vaikhanasa Agama and Pourohitya were admitted for the academic year 2006-07. They were the students of S.V. Veda Pathasala, Vedagiri. The Academic Council of the University was empowered by Sub-section(c) of Section 1 of the Statute 7 of the Act to frame regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, including discipline, admissions, award of fellowships and studentships, fees and other academic requirements. A committee was constituted for recommending the number, cadres, qualification and experience of the positions in teaching and non-teaching necessary for the University by resolution dated 23.08.2007. Sub-section (2) of Section 5 of the Act empowers the Executive Council to prescribe the qualifications for teachers and other academic staff keeping in view the uniqueness of the objectives and requirements of the University. The committee met on 30th January 2008 and submitted its interim report

recommending stop gap arrangement till the posts are filled up on regular basis, basing on the final report to be submitted. On the basis of the interim report some teachers were appointed on contract basis. The final report was submitted on 22.02.2008 recommending creation of various teaching and non-teaching positions catering to the current needs. Accordingly, the Vice-Chancellor was empowered to appoint teachers up to 30th June 2008 on contract basis in six disciplines. The report of the sub-committee for creation of teaching and non-teaching positions was accepted and it was resolved to take up the recruitment in a phased manner with prior approval of the Executive Council. It was also resolved in the Executive Council meeting dated 25.03.2008 to work out the modalities of eligible teachers for TTD. Some guest faculty was appointed through walk-in-interview as a stop gap arrangement. It was resolved on 09.11.2008 to issue an advertisement for recruitment of teachers by giving due weightage to the teachers of Veda Pathasala under TTD. The minutes of the 5th Executive Council meeting shows that TTD Trust Board vide its resolution No.152, dated 28.05.2008 approved the sanction of teaching and non-teaching posts. The advertisement was issued on 09.11.2008 and interviews were conducted. The selection committee recommendations were approved and the adhoc appointments were made for a period of one year with consolidated pay equivalent to the first gross pay of the scale due to the respective cadres. Thus, seven (7) Lecturers and one (1) Professor in various disciplines were appointed. Accordingly, appointment orders were issued on 22.05.2009. Pursuant to the regular recruitment made in June 2009, 24 Teachers (one (1) Professor, four (4) Readers and nineteen (19) Lecturers) were appointed and their probation was declared after completion of two years

of service. However, two teachers (one (1) Professor and one (1) Reader) left the University for their personal reasons.

As on today there are no approved service rules for the teaching faculty and the UGC Rules which are applicable to the modern courses of study are not relevant for the traditional courses which are unique to the University. It is stated that the petitioners were appointed on adhoc basis for want of eligible and suitable candidates. As could be seen above, there are four types of teaching staff working in the University namely permanent faculty, faculty on contract basis, adhoc faculty and part-time faculty. The University which was started in the year 2006 ought to have regulated its affairs during the last decade and made permanent arrangements. Even the notification issued on 04.08.2012 was for walk-in-interviews only.

Though a selection committee was constituted, it does not include the Head of the concerned Department. The qualifications of the subject experts appear to have been not in tune with the Statute and in fact their qualifications were not known but they were nominated by the Vice-Chancellor. They were not selected from the panel approved by the Executive Council. Be that as it may, the selection committee took arbitrary decisions recommending the names of the petitioners to be appointed on adhoc basis. The record shows that number of candidates attended the interview, but now in the counter affidavit it is stated that eligible and suitable candidates were not available and the said statement appears to be not correct as could be seen from the following table:

Sl. No.	Name	Name of the Post	No.of candidates called for the interview	No.of candidates attended for interview
1.	Dr. C. Karthikeyan	Lecturer in Saiva Agama	9	9

2.	K.H. Rajesh Kumar	Lecturer in Pancharatragama	9	6
3.	Dr. Vinayak Bhat	Lecturer in Chandas Sastra	2	2
4.	V.S. Prathapa Chandra	Lecturer in Sukla Yajurveda (Kanva)	16	7
5.	PTG Bharat Sekharacharyulu	Lecturer in Pancharatragama	9	6
6.	P. Neelakantam	Lecturer in Saiva Agama	9	9
7.	R.V. Satyanarayanacharyulu	Lecturer in Vaikhanasa Paurohityam	12	-
8.	P. Srinivasa Swamy Iyyangar	Lecturer in Vaikhanasa Paurohityam	12	-
9.	G. Madhubabu	Lecturer in Vaikhanasa Paurohityam	12	-

The selection committee recommendations do not indicate the number of persons who attended the interview in respect of subjects in Sl.Nos.7 to 9 and no transparent procedure was followed. In fact, no qualifications were prescribed for selection of the candidates and it was left to the subjective opinion of the selection committee. The circular of the University Grants Commission of 2010 says that the qualifications and selection procedure for adhoc/contract teaching staff is same as that of regular teaching staff. Since the petitioners did not challenge the selection procedure and they challenged the subsequent notifications and sought their continuance pursuant to the earlier notification dated 29.11.2008, this Court is refraining from scrutinizing the selections. It is for the Executive Council and the Sponsoring Institution to take necessary steps for prescription of qualifications and eligibility criteria for recruitment of teaching staff. A perusal of the entire record shows that the University is being run on adhocism. The Vedic learning was based on Guru-Sishya parampara (tradition) and the present day education system does not encourage such method but at least there should be some attachment to

the teacher by the student. It can be ensured only when permanent appointments are made but not by walk-in-interviews or adhoc appointments. This system is regressive to Vedic learning.

In view of the law laid down by the Hon'ble Supreme Court in Secretary, State of Karnataka v. Umadevi⁽³⁾ and others¹, and Vidyavardhaka Sangha v. Y.D. Deshpande², the position of the petitioners is very clear. The issue with regard to claim of persons seeking employment, absorption, regularization or permanent continuance, temporary, contractual, casual, daily wage or adhoc is authoritatively considered by a Constitution Bench of the Supreme Court in Umadevi (3)'s case (supra). The Supreme Court held as follows:

“...Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme...

...

When a person enters a temporary employment or gets engagement as a contractual or casual worker and the

¹ (2006) 4 SCC 1

² (2006) 12 SCC 482

engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”

The petitioners joined the service accepting their letters of appointment. Though the petitioners may have some expectation because of their continuance, they have no right for regularization.

The decision in Umadevi (3)’s case (supra) was followed in subsequent decisions of Brij Mohan Lal v. Union of India³, and Secretary to Government, School Education Department, Chennai v. R. Govindaswamy⁴. In Brij Mohan Lal’s case (supra) the Supreme Court was considering the case of adhoc Judges appointed for the Fast Track Courts. One of the issues considered in the said case is whether appointees to the post of ad hoc Judges under the FTC Scheme have a right to the post. The Supreme Court held in paragraph 174 therein that the appointees have no right to the posts in question as the posts themselves were temporary and were bound to come to an end by efflux of time. It was also held that in the letters of their appointment and the Rules under which the same were issued, it was made clear that they cannot claim any indefeasible right either to regularization or absorption.

In Y.D.Deshpande’s case (supra) the Supreme Court held as follows:

³ (2012) 6 SCC 502

⁴ (2014) 4 SCC 769

“It is now well-settled principle of law that the appointment made on probation/ad hoc basis for a specific period of time comes to an end by efflux of time and the person holding such post can have no right to continue on the post. In the instant case as noticed above, the respective respondents have accepted the appointment including the terms and conditions stipulated in the appointment orders and joined the posts in question and continued on the said post for some years. The respondents having accepted the terms and conditions stipulated in the appointment order and allowed the period for which they were appointed to have been elapsed by efflux of time, they are not now permitted to turn their back and say that their appointments could not be terminated on the basis of their appointment letters nor they could be treated as temporary employee or on contract basis. The submission made by the learned counsel for the respondents to the said effect has no merit and is, therefore, liable to be rejected. It is also well-settled law by several other decisions of this Court that appointment on ad hoc basis/temporary basis comes to an end by efflux of time and persons holding such post have no right to continue on the post and ask for regularisation etc.”

In view of the above legal position, these two Writ Petitions are disposed of by directing the first respondent to constitute a selection committee in accordance with the Statute of the University and prescribe the qualifications for various posts of teaching staff. A fresh notification shall be issued inviting applications from eligible candidates including the petitioners and due weightage shall be given in the said notification for the services rendered by the petitioners and the petitioners shall be given an opportunity to undergo the selection process along with others in a transparent manner, provided the petitioners fulfil the qualifications. The petitioners shall be continued in service till regular selections are made in accordance with law. The entire exercise shall be completed before commencement of the next academic year. It is hoped that the University would make permanent arrangements with regard to faculty at least after a decade of its existence.

There shall be no order as to costs. As a sequel thereto, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 23rd September 2016
Nsr

