

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

Writ Appeal No.1034 of 2017

DATED:02-08-2017

Between:

The State of Telangana
Rep. by its Principal Secretary to Government
School Education Department
Telangana, Secretariat
Hyderabad, and others ... Appellants

And

B. Swamy
and another ... Respondents

COUNSEL FOR THE APPELLANTS: Government Pleader for Education (TS)

COUNSEL FOR THE RESPONDENTS: Mr. Pratap Narayana Sanghi



THE COURT DELIVERED THE FOLLOWING:

JUDGMENT: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ appeal arises out of order dt.09.02.2017 in W.P. No.25026 of 2004 whereby the learned single Judge has declared that the petitioner is entitled to all the benefits for a period of two years from 16.07.2003.

2. The brief facts leading to the filing of this writ appeal are stated hereunder. Respondent No.1, who was a Bachelor in Arts and also Physical Education, was appointed as Teacher by respondent No.2 on 01.10.1988 in an unaided post and his appointment was ratified by appellant No.3 vide proceedings dt.13.08.1991. Appellant No.2 has approved the said appointment of respondent No.1 vide proceedings dt.01.04.2003. The post initially held by respondent No.1 as P.E.T. was converted as S.G.T. by the management of respondent No.2 and the same was ratified by appellant No.3 on 13.8.1991. This action of appellant No.3 was also approved by appellant No.2, with effect from 01.08.2002. While respondent No.2 institution is an aided institution, respondent No.1 was appointed in an unaided post. With the retirement of one Smt. Prameela, who was working in an aided post, respondent No.1 was absorbed in the said aided post. Subsequently the action of respondent No.2 in absorbing respondent No.1 from S.G.T. unaided to SGT aided post was approved by appellant No.2 on 09.09.2003. Respondent No.1 had to approach this Court by filing W.P. No.25026 of 2004 assailing the action of the appellants in applying G.O. Ms. No.180, dt.29.12.2000 by treating him as an apprentice for a period of two years with effect from 16.07.2003.

3. Respondent No.1 pleaded that G.O. Ms. No.180 dt.29.12.2000 was issued to amend the Andhra Pradesh Direct Recruitment of Teachers (Scheme of Selection) Rules, 2000 (for short, "the Rules") notified in G.O.

Ms. No.1, dt.01.01.1994, that the said G.O. was issued in order to bring parity between the directly recruited teachers in the Government, Panchayat Raj and Municipal Schools on one side, and the directly recruited teachers in private aided schools on the other side, and that respondent No.1 having put in fourteen years of service as a teacher in the unaided post before he was absorbed into aided post, the said G.O. has no application. The appellants have filed a counter affidavit contradicting the aforementioned stand of respondent No.1. The learned single Judge, however, allowed the writ petition by holding that G.O. Ms. No.180, dt.29.12.2000 has no application to the case of respondent No.1.

4. The learned Government Pleader for School Education (TS) strenuously submitted that the finding of the learned single Judge on the non-applicability of G.O. Ms. No.180, dt.29.12.2000 suffers from a serious error. According to her, irrespective of whether a person was working in an unaided post before his appointment in the aided post in a private school, the said G.O. applies. Sri Pratap Narayan Sanghi, learned counsel for respondent No.1 sought to support the order of the learned single Judge.

5. We have carefully considered the submissions of the learned counsel for both the parties with reference to record.

6. A perusal of G.O. Ms. No.180, dt.29.12.2000 shows that the same was issued for the purpose of amending the provisions of the Rules. The object of amending the said Rules is contained in paragraph 2 of the said G.O., which reads as under:

"2. The Director of School Education, Andhra Pradesh, Hyderabad in the reference 4th read above has reported that the above orders are applicable to the teachers appointed in Government, Panchayat Raj and Municipal Schools, whereas the teachers selected for private aided schools are appointed on regular scale of pay prescribed for the post. Thus the teachers appointed in aided posts

of the Private management schools enjoy benefit of the regular scale of pay from the day of their joining duty, whereas their counter-parts in Government, Panchayat Raj and Municipal Schools get the benefit of regular pay after completion of four years of apprenticeship period. He has therefore requested the Government to take necessary steps to correct the imbalance."

As could be deciphered from the contents of paragraph 2 reproduced above, G.O. Ms.No.180, dt.29.12.2000 was issued to bring in parity between the teachers appointed in the government and local bodies schools and private aided schools. The very nomenclature of the Rules indicates that they pertain to direct recruitment of teachers. It is not in dispute that these Rules govern not only government and other local bodies schools, but also private schools in respect of direct recruitment of teachers. Therefore, the parity that was sought to be brought in by G.O. Ms. No.180, dt.29.12.2000 is in relation to the directly recruited teachers only. Admittedly respondent No.1 has put in fourteen years of service in an unaided post before he was absorbed in aided vacancy. Hence, by no stretch of imagination, respondent No.1 can be considered as a directly recruited teacher so as to attract G.O. Ms. No.180, dt.29.12.2000.

7. There is another reason which impels us to hold that G.O. Ms. No.180, dt.29.12.2000, as amended by G.O. Ms. No.100, dt.16.08.2001, is not attracted to respondent No.1. Ordinarily, a person is appointed as apprentice, before his services are regularized. Since G.O. Ms. No.180, dt.29.12.2000 deals with directly recruited teachers and the scheme provided for giving them status of apprentice for a period of two years (the period of four years in G.O. Ms. No.180 was reduced to two years in G.O. Ms. No.100) before they are treated as regular teachers holding the aided posts, respondent No.1 having put in experience of fourteen years in unaided post cannot be treated as an apprentice, as the duties

discharged by him as aided teacher do not vary with the duties which he has discharged as a teacher in the unaided post for fourteen years. Even viewed from this angle also, it would be wholly irrational to treat respondent No.1 as an apprentice for a period of two years before he was paid aided salary.

8. For the aforementioned reasons, we do not find any error in the order of the learned single Judge. Hence, the writ appeal is dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P. No.1999 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

02-08-2017

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