

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 16875 OF 1999

ORDER:

The memo dated 28.04.1999 issued by the 1st respondent rejecting the proposal to absorb the petitioner against the aided post of Junior Assistant in the 5th respondent - M.S.N. Junior College, Kakinada, is challenged in this Writ Petition.

The case of the petitioner is that he was appointed as an Attender in the 5th respondent college on 31.07.1970. Subsequently, he was promoted as a Record Assistant in 1982, later, on 22.02.1989 as a Junior Assistant. It is also his case that the 5th respondent college was converted from M.S.N. High School by virtue of G.O.Ms.No. 2219 dated 22.09.1969. While so, on 31.10.1991, the 4th respondent forwarded the proposals to the 2nd respondent for sanction of posts and also requested to absorb the services of the petitioner against the posts admitted to grant-in-aid. The petitioner also filed Writ Petition No. 15163 of 1993 for regularization of his services in the 5th respondent college. The said Writ Petition was disposed of on 08.10.1993 directing the 5th respondent to forward the representation of the petitioner dated 23.06.1993. Thereafter, after a long lapse of six years, the impugned memo was passed holding that the petitioner's initial appointment in 1970 as the Attender itself is irregular and not by a properly-constituted committee. In that view of the matter, the claim of regularization of services of the petitioner cannot be considered and consequently, the question of his being considered for admission against the grant-in-aid post of Junior Assistant

does not arise. It is the further case of the petitioner that he also retired from the service of the 5th respondent college.

Learned counsel for the petitioner, copiously taking this Court through various G.Os. issued from time to time, submits that the 1st respondent in the impugned memo has failed to consider the case of the petitioner in terms of G.O.Rt.No. 1463 dated 05.08.1982, whereunder even the irregular appointments made by the preceding managements were directed to be regularized. If one considers the case of the petitioner from the perspective of G.O.Rt. No. 1463, his case would fall outside the exercise of irregular appointments. In that view of the matter, the learned counsel would urge that inasmuch as the memo dated 28.04.1999 has not considered the case of the petitioner, keeping in view G.O.Rt.No.1463, dated 05.08.1982, the same may be set aside directing the respondents to reconsider his case in accordance with law.

Learned Government Pleader for Higher Education submits that the prayer sought for by the petitioner in Writ Petition No. 15163 of 1993 is for his absorption into the aided vacancy arising in the erstwhile 5th respondent school but not in the college. The learned Government Pleader therefore, submits that the petitioner does not deserve any consideration and the Writ Petition is liable to be dismissed.

Learned counsel appearing for Respondents 4 and 5 would support the case of the petitioner and submit that as a matter of fact, the college, considering the service rendered by the petitioner, had recommended his absorption into the existing sanctioned

posts, which were admitted to grant-in-aid with effect from 01.07.1977.

Considered the respective submissions. A perusal of the impugned memo dated 28.04.1999 clearly discloses that G.O.Rt.No. 1463, dated 05.08.1982 was not considered. The said G.O. reads as under:

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

COLLEGES:- Private Colleges – Recruitment of Non-teaching staff in Private Degree and Junior Colleges – Notification of appointment/promotions made without following the prescribed procedure – Orders – Issued.

EDUCATION (J) DEPARTMENT

G.O.Rt.No. 1463 Education

Dated: 5th August, 1982

Read the following:-

1. G.O.Ms.No. 1119, Education, dated 18.12.1976.
2. G.O.Ms.No.667, Education, dated 18.06.1977.
3. G.O.Ms.No. 558 Education, dated 19.06.1981.
4. From the Director of Higher Education, Lr.Rc.No. 1098/KII-3/82, dated 24.02.1982.
5. From the Director of Higher Education, Lr.Rc.No. 1098/KII-3/82, dated 19.04.1982.
6. From the Director of Higher Education, Lr.Rc.No. 1098/KII-2/82, dated 04.05.1982.

The Director of Higher Education in his letters 4th and 6th read above has submitted proposals to ratify all the irregular appointments / promotions of non-teaching staff made by the managements of the Private Degree and Junior Colleges in the State without following the relevant rules till the issue of orders by the Government in G.O.Ms.No. 558, Education, dated 19.06.1981 and communication of the same to the Colleges by the Director of Higher Education, i.e. 03.11.1981.

2. Government after careful examination of the matter have decided to accept the proposal of the Director of Higher Education. The Director of Higher Education is, therefore, permitted to ratify the action of the managements of the private Colleges (both Degree and Junior Colleges) in having recruited the non-teaching staff in their institutions without following prescribed procedure in G.O.Ms.No. 1119 Education, dated 18.12.1976 and without the media of employment exchange prior to and up to the date of 19.06.1981 is referred under para 2(II) of G.O.Ms.No. 667, Education dated 19.06.1981 provided they are otherwise fully qualified and eligible to hold the post with reference to the qualification of age and communal roster as per rules.

3. The Director of Higher Education is requested to make it clear to all the managements of the Private Colleges that they should strictly follow the rules regarding selection and recruitment of the non-teaching staff in their institutions in future and no relaxation of rules will be entertained by Government.

(BY ORDER AND IN THE NAME OF GOVERNOR OF ANDHRA PRADESH)

JANAKI KRISHNAMURTHY
Deputy Secretary to Government

// Forwarded by Order//

Sd/- X X X X
Section Officer

The above-quoted G.O. clearly says that the action of the managements of the private Colleges (both Degree and Junior Colleges) in having recruited the non-teaching staff in their institutions without following prescribed procedure in G.O.Ms.No. 1119 Education, dated 18.12.1976 should be ratified as a one-time measure. In that view of the matter, the appointment of the petitioner which was made by the 5th respondent management in 1970, stands regularized. Therefore, the impugned memo rejecting consideration of the case of the petitioner on the ground that his initial appointment was in 1970 cannot be sustained. However, considering the fact that the petitioner had already attained the age of superannuation, only for monetary benefits, his case has to be considered.

The impugned memo dated 28.04.1999 is therefore, set aside and the matter is remanded to the 1st respondent for re-consideration of the petitioner's case, keeping in view G.O.Rt. No. 1463 dated 05.08.1982. Such exercise shall be completed within four months from the date of receipt of a copy of this order.

The Writ Petition is accordingly, allowed. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

24th July 2017

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