

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

Writ Petition Nos.10726 and 18759 of 2017

DATED:07-08-2017

W.P. No.10726 of 2017

Between:

M. Chandrasekhar ... Petitioner

And

The State of Telangana
Rep. by its Principal Secretary
Higher Education Department
Secretariat Buildings, Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. A. Rajendra Babu

COUNSEL FOR RESPONDENT NOS.1 to 3: G.P. for Higher Education
(TS)

COUNSEL FOR RESPONDENT NO.4 : -

W.P. No.18759 of 2017

Between:

The State of Telangana
Rep. by its Principal Secretary
Higher Education Department
Secretariat Buildings
Hyderabad
and others ... Petitioners

And

M. Chandrasekhar
and another ... Respondents

COUNSEL FOR THE PETITIONERS : G.P. for Higher Education

COUNSEL FOR RESPONDENT NO.1: Mr. A. Rajendra Babu

COUNSEL FOR RESPONDENT NO.2: -

THE COURT MADE THE FOLLOWING:

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

Writ Petition No.10726 of 2017 is filed for a mandamus to declare the inaction of respondent Nos.1 to 3 in implementing order dt.21.09.2015 in O.A. No.5241 of 2015 on the file of the Andhra Pradesh Administrative Tribunal (for short, "the Tribunal"). Writ Petition No.18759 of 2017 is filed by the respondents in the aforementioned O.A. assailing the aforementioned order of the Tribunal. Since the subject matter of these two writ petitions is common, they are heard together and being disposed of by this common order.

2. We have heard the learned Government Pleader for Higher Education (TS) appearing for the petitioners in W.P. No.18759 of 2017/respondent Nos.1 to 3 in W.P. No.10726 of 2017, and Mr. A. Rajendra Babu, learned counsel for the petitioner in W.P. No.10726 of 2017/respondent No.1 in W.P. No.18759 of 2017. For convenience, the parties are referred to as they are arrayed in W.P. No.18759 of 2017.

3. Respondent No.1 was appointed on 05.01.1989 as Graduate Librarian in Government Junior College and was promoted on 01.05.2000 as Librarian in Government Degree College. As he was not paid UGC Pay Scales, he has filed O.A. No.5241 of 2015 before the Tribunal. The Tribunal vide impugned order dt.21.09.2015 allowed the said O.A. following order dt.09.02.2015 in O.A. No.3455 of 2012. As the said order was not implemented, respondent No.1 filed W.P. No.10726 of 2017. Feeling aggrieved by the said order, the petitioners have filed W.P. No.18759 of 2017.

4. The learned Government Pleader for Higher Education (TS) argued that the facts in O.A. No.3455 of 2012 were completely different as the said O.A. was filed by a person who was recruited directly as Physical

Director on 10.09.1986 in Government Junior College and on 24.10.1998 he was promoted as Physical Director (Lecturer in Physical Education) of Degree College. Since UGC pay scales were not paid to him on the ground that he did not pass the National Eligibility Test (NET) or State Level Eligibility Test (SLET), he has filed O.A. No.3455 of 2012, which was allowed by the Tribunal. The learned Government Pleader further submitted that under G.O. Ms. No.61, dt.16.07.2001 the Junior Lecturers/Physical Directors/Librarians who were appointed prior to 01.01.1986 in Government Junior Colleges and promoted as Lecturers/Physical Directors/Librarians in Government Degree College after 01.01.1986 are exempted from passing NET/SLET, that the applicant in O.A.No.3455 of 2012 was a Physical Director who was covered by paragraph 7 of the said G.O. and that on interpreting the said paragraph of the G.O., the Tribunal and this Court have granted the relief to the applicant therein. The learned Government Pleader further argued that since respondent No.1 was admittedly appointed after 01.01.1986, i.e., on 05.01.1989 as a Graduate Librarian and promoted on 01.05.2000 as Librarian, he was not exempted from passing the NET/SLET.

5. Mr. A. Rajendra Babu, learned counsel for respondent No.1, while fairly admitting that though paragraph 6 of the aforesaid G.O. may not in strict sense apply to this case, nevertheless, under paragraph 7, existing Physical Directors/Lecturers who are drawing the State scales are also exempted from passing the NET/SLET and that therefore his client may be treated on par with the Physical Directors/Librarians covered by the said paragraph of the G.O.

6. Paragraphs 6 and 7 of G.O. Ms. No.61, dt.16.7.2001 read as under:

“6. Accordingly, Government hereby direct that the Junior Lecturers/ Physical Directors / Librarians who were appointed prior to 1.1.1986 in

Government Junior Colleges and promoted as Lecturers / Physical Directors / Librarians in Government Degree College after 1.1.1986 be exempted from passing National Eligibility Test / State Level Eligibility Test and they may be allowed University Grants Commission pay scales.

7. *Government also direct that the Lecturers who were appointed by Direct Recruitment after 1.1.1986 and existing Physical Directors / Lectures who are drawing the State (Scales) also be exempted from passing the National Eligibility Test / State Level Commission Scales (State Level Eligibility Test). However, all the future recruitments will be subject to passing of National Eligibility Test / State Level Eligibility Test."*

It is evident from the above extracted paragraphs, Junior Lecturers /Physical Directors / Librarians who were appointed prior to 01.01.1986 in Government Junior Colleges and promoted as Lecturers/Physical Directors/Librarians in Government Degree Colleges after 01.01.1986 are exempted from passing NET/SLET. Admittedly, respondent No.1 was appointed as Graduate Librarian on 05.01.1989, which is after the cut off date of 01.01.1986. Therefore, respondent No.1 falls outside paragraph 6 of the G.O. As regards paragraph 7, it applies only to Lecturers who were appointed by direct recruitment after 1.1.1986 and existing Physical Directors/Lecturers who are drawing the State scales. Undisputedly respondent No.1 being a Librarian does not fall under paragraph 7 either.

7. The applicant in O.A. No.3455 of 2012 admittedly was a Physical Director and, on a writ petition filed by the State and its officials aggrieved by the order of the Tribunal in allowing the O.A., a Division Bench of this Court, speaking through one of us (C.V. Nagarjuna Reddy, J) in *State of Andhra Pradesh v. K. Venkata Ramana*¹ while dismissing the writ petition, interpreted paragraph 7 of the said G.O. as under:

The learned Government Pleader wanted us to interpret para 7 as applicable to only the Lecturers and the Physical Directors who were directly recruited as such in Degree Colleges after 01.01.1986. We are afraid we cannot

¹ 2016 (5) ALT 781

accept this interpretation proposed by the learned Government Pleader. If the Government intended that the Physical Directors are also to be directly recruited in Degree Colleges like Lecturers, the words "and existing Physical Directors/Lecturers" deployed in the 2nd line of para 7 would be redundant and instead para 7 would have read as "the Government also direct that the Lecturers and Physical Directors/Lecturers". In other words, para 7 has created two different categories for being exempted from passing National Eligibility Test/State Level Eligibility Test i.e., Lecturers who are directly recruited in Degree Colleges after 01.01.1986 and also Physical Directors/Lecturers who may have been promoted and drawing the State scale as on 16.07.2001 i.e., the date on which G.O.Ms. No. 61 was issued. Admittedly, respondent No. 1 was promoted as Physical Director/Lecturer on 24.10.1998 and was working as on 16.07.2001 and drawing State scale. Therefore, the Tribunal has correctly interpreted G.O.Ms. No.61 and granted relief to Respondent No. 1. Hence, we do not find any illegality in the order of the Tribunal warranting our interference.

The aforesaid judgment is of no avail to respondent No.1 as he does not fall either under paragraph 6 or under paragraph 7 of the said G.O.

8. In the light of the above discussion, the order of the Tribunal is set aside and W.P.No.18759 of 2017 is allowed and W.P. No.10726 of 2017 is dismissed.

As a sequel to disposal of the writ petitions, W.P.M.P. Nos.13298 and 22880 of 2017 filed in the respective writ petitions shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

07-8-2017

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