

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.27846 of 2012

Date : 2.3.2017

Between :

G Mahita Kumari W/o Ch Theophilus
R/o D No. 13-199/2/2
Madhusudan Nagar, Malkajgiri
Secunderabad

Petitioner

And

The A P Social Welfare Residential Educational Institutions Society
Rep by its Secretary, Hyderabad and another

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner was initially appointed as Trained Graduate Teacher (TGT) in A.P. Social Welfare Residential Schools in Guntur on 27.1.1987 on a consolidated pay of Rs.600/- per month, which was revised from time to time. Considering her services and by following the scheme of regularization notified in G.O.Ms No. 212 Finance and Planning (FW-PC.III) Department dated 22.4.1994 the proposals submitted by the respondent society were examined and by orders issued in G.O. Ms No. 124 Social Welfare (K) Department dated 27.11.1995 services of the petitioner along with several others were regularized. In November, 2003, a show cause notice was issued on her calling upon her to show cause as to why her regularization should not be cancelled on the ground that she does not possess the qualification prescribed to hold the post of TGT. On consideration of her explanation, orders are passed in G.O. Ms No. 26 dated 11.4.2011 cancelling the regularization of services of the petitioner, which Government Order is under challenge in this writ petition.

2. Heard learned counsel for petitioner, learned counsel for first respondent Sri Uma Shankar Lokanadham and learned Government Pleader for Social Welfare for second respondent.

3. Basic facts as noted above are not in dispute. Bare perusal of the show cause notice would show that according to the qualifications prescribed for the post of TGT in the respondent society, a person must have first or second class degree with not less than 50 % marks and B.Ed in relevant subject methodology. The show cause notice alleges that petitioner was having only third class degree, therefore, she was not qualified. The show cause notice does not allege that there was suppression on the part of the petitioner regarding the qualification possessed by her. The eligibility of the petitioner was processed

and on consideration of the eligibility and on recommendations made by the society, the order of regularization was granted. As seen from G.O.Ms No. 124 dated 27.11.1995 the claim of regularization in the respondent society was processed with reference to several employees. On examination of the proposals, claims of certain employees were rejected and claims of petitioner and others were accepted for regularization. This order of regularization was passed on 27.11.1995, which is now sought to be cancelled by order in G.O. Ms. NO. 26 dated 11.4.2011 i.e., after 16 years. The only ground shown in the show cause notice is that petitioner did not have first or second class graduation. Though the order of cancellation of regularization also refers to age bar at the time of employment, this was not forming part of the show cause notice. Further more, G O Ms No.26 dated 11.4.2011 does not assign reasons in support of the decision to cancel the regularization, after considering the explanation submitted by the petitioner. It was categorical stand of the petitioner that on consideration of her eligibility and in relaxation of the requirements of not having first or second class degree, regularization was granted. This contention was not dealt with while passing the final orders. As seen from the counter affidavit, respondents admit that petitioner retired from service on attaining the age of superannuation with effect from 31.7.2008. In other words, the order canceling regularization of service of petitioner was cancelled after the retirement of the petitioner.

4. The decision of the respondents impugned in the writ petition canceling the regularization passed after 16 years, that too, after retirement of the employee on the specious ground that the petitioner does not have first or second class degree, cannot be countenanced. Cancellation of regularization and putting back the petitioner to the stage of consolidated pay, after retirement, would deprive the petitioner the retirement benefits, after utilizing the services of the employee for almost 30 years. Thus, civil and evil consequences fell on the petitioner. No such order can be passed without assigning due reasons in

support of the decision. The impugned G.O. Ms. No. 26 dated 11.4.2011 is set aside to the extent petitioner is concerned. Writ Petition is allowed with all consequential benefits. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

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TVK



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