

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 30284 of 2014

Order:

The petitioners are working as employees of Sarva Shiksha Abhiyan in various Mandals situated in Krishna District on contract basis. When they were sought to be replaced by other contract employees by issuing a notification in the newspapers on 07.10.2014, the present Writ Petition was filed and, this Court, by order dated 14.10.2014, directed their continuance until further orders on contract basis on the same terms and conditions. As a result of which, they have been continuing as on today.

It is the case of the petitioners that they belong to weaker sections of the society and they are qualified in Computer Applications, Typewriting etc. They were initially appointed as Data Entry Operators and they are being continued. They state that since they are also contractual employees, they shall not be replaced by other contractual employees.

A counter affidavit is filed stating that the petitioners possessed SSC/Intermediate with Diploma in Computer Applications. The State Project Director issued proceedings on 29.04.2004 stating that the minimum qualification required for Data Entry Operators is a Degree and Certificate/Diploma in Computer Applications and the petitioners did not possess the same. The petitioners were appointed as Data Entry Operators only, but not as MEO Assistants like Junior Assistants as stated by them in the Writ Petition. The honorarium was being paid to them from Sarva Shiksha Abhiyan funds, as they were engaged on contract basis. They were appointed with a fixed remuneration. A competency test was conducted to all the Data Entry Operators and on that basis they were continued during the year 2013-14, but their services were

terminated on 23.04.2014. The posts are not permanent posts with any scale of pay. However, the enhancement of remuneration was considered by reviewing their remuneration. For filling up of the posts of Data Entry Operators, the district was taken as unit and roster points were fixed accordingly by taking the Mandals in alphabetical order.

Thus, the case of the petitioners that they have been continuing as Data Entry Operators is not disputed. It is also stated in the counter affidavit that a competency test was conducted and the petitioners were continued on the basis of competency test during the year 2013-14. Though, the services of the petitioners were terminated on 23.04.2014, by virtue of the interim orders granted in the present Writ Petition on 14.10.2014 they are being continued. It is settled law that a contractual employee cannot be replaced by another contractual employee and hence the notification issued for recruitment of fresh contract staff is bad in law.

Accordingly, the Writ Petition is allowed by setting aside the impugned notification dated 07.10.2014. However, the services of the petitioners shall be continued on the same terms as they were appointed subject to enhancement of remuneration from time to time as reviewed by the competent authority. However, this will not prevent the respondents from recruiting fresh staff on permanent basis whenever vacancies are available in the District by strictly following the rule of reservation. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 15.12.2017
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