

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.2605 OF 2010

Dated:21.02.2017

Between:

Smt. P. Sudaya Kumari, W/o.B. Kishore
Babu, Aged 50 years, working as Secondary
Grade Teacher, CSI Elementary School,
Thotaravulapadu, Chandralapadu Mandal,
Krishna District

.. Petitioner

And

Government of Andhra Pradesh, rep., by its
Secretary, Education Department,
Secretariat Buildings, Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.2605 OF 2010

ORDER:

The petitioner was appointed as Secondary Grade Teacher in the Church of South India (CSI) Elementary and Upper Primary School, Thotaravulapadu Village, Chandralapadu Mandal, Krishna District, the 4th respondent. It appears that the name of the petitioner was replaced by a Scheduled Caste candidate just to observe the principle of rule of reservation. The name of the petitioner was included along with 141 other candidates working in private educational institutions in the list for regularisation in relaxation of certain conditions stipulated as per Rule 15 of the Rules notified vide G.O.No.524, dated 20.12.1988, and vide G.O.Ms.No.92, dated 03.12.1999, Government rejected irregular appointments made by private educational institutions and approved the appointments. Later, it came to the notice of the Government that by manipulating or fabricating the records, the petitioner and two others claimed as if they continuously worked as teachers in the concerned schools to claim regularisation. Accordingly, earlier orders of the Government vide G.O.Ms.No.92, dated 03.12.1999 were cancelled vide orders in G.O.Ms.No.21, dated 06.03.2007. Aggrieved by this order of cancellation and consequential termination of the service by the Management vide proceedings, dated 12.05.2007, the petitioner instituted W.P.No.10632 of 2007. The said Writ Petition was allowed by a learned single Judge of this Court holding that the cancellation of regularisation and consequential termination was not preceded by notice and due opportunity of hearing and therefore, the

proceedings are in gross violation of the principles of natural justice, and accordingly granted liberty to the 3rd respondent to take appropriate action as available in law after putting the petitioner on notice and granting her personal hearing. In pursuance of the said orders, hearing was conducted and she participated in it. The petitioner was directed to produce material in support of her claim that she continuously worked till the orders of regularisation were passed. In spite of granting sufficient opportunity, the petitioner did not produce any material to show that she continuously worked till the order of regularisation was passed. Attendance Register was also not properly maintained to prove that she has worked. The defence taken by the petitioner was that though her services were terminated in June, 1995 by the Management of the School, she was inducted into service immediately on the same day and continued in service. Though the petitioner continued in service, she was not paid pay and allowances till regularisation was granted. On detailed consideration of the material on record and the explanation of the petitioner, the Government has not accepted her stand on the claim that she continuously worked and that there was no manipulation or fabrication of records.

2. It appears from a reading of the impugned G.O., that the services of the petitioner were terminated by the Management of the School in June, 1995 and thereafter she did not work in the School. Having come to know that the Government has decided to grant regularisation of services of teachers working in private educational institutions, she claimed for such regularisation by showing as if she continued to work from 1995. In order to prove

that she worked continuously, she manipulated and fabricated the school records. The stand of the petitioner that without receiving salary, she continued to work was not accepted. In the absence of any other material to show that the petitioner continued to work, the Government made endeavour, at least, to know from her the particulars of payment of salary to her for the period instead of asking for production of any other proof. The petitioner's stand that she continued to work for almost four years without being paid salary and allowances, was not accepted.

3. A bare perusal of the earlier enquiry report would show that, in fact, in the year 1994 itself, the services of the petitioner were dispensed with in order to accommodate a candidate belonging to Scheduled Caste category to fulfil the requirements of principle of reservation. It appears that a separate Attendance Register was maintained by the petitioner for the period June, 1995 to March 2000, but on scrutiny of the same, it was noticed that it was not attested by the Head Master or Mandal Educational Officer (MEO). Similarly, in the pupils attendance register, the signatures of the petitioner were countersigned only in the year 2000 and even for this year not countersigned by the Head Master. The enquiry officer therefore found that these serious discrepancies point out manipulation of record, and without properly verifying the record, the then MEO certified that the petitioner was working continuously. The enquiry officer also suggested to take action against the MEO for giving such false certification.

4. Be that as it may, as noticed from the impugned G.O., and as directed by this Court in W.P.No.10632 of 2007, due

opportunity was given to the petitioner to establish that she actually worked continuously till the order of regularisation was passed. In spite of granting sufficient opportunity, no material was placed before the Government in support of the stand of the petitioner that she has actually worked and that there was no manipulation or fabrication of the school records.

5. Thus, it cannot be said that there was error in appreciating the material on record. It is not a case of not affording due opportunity. The Government was of the firm opinion that there was manipulation or fabrication of school records to claim as if she continuously worked even though the School Management terminated the services of the petitioner in June, 1995. Thus, the burden was on the petitioner to prove that she actually worked. However, even now no material is placed to show that she worked during the relevant period. Therefore, I see no error in the impugned G.O., issued by the Government warranting interference by this Court and the Writ Petition is liable to be dismissed.

6. The Writ Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:21.02.2017

KH