

THE HON'BLE SRI JUSTICE M.S. RAMCHANDRA RAO
W.V.M.P. No.1534 of 2017 in W.P.M.P.No.46154 of 2016
And
WRIT PETITION No.37459 of 2016

COMMON ORDER:

WVMP.No.1534 of 2017 is filed by the respondents to vacate the order, dated 02.11.2016, in WPMP.No.46154 of 2016 in W.P.No.37459 of 2016.

The writ petitioner was employed as a contract Junior Lecturer in English ever since 2005 and the last of such contract appointment was for the period 01.04.2015 to 31.03.2016.

The contract service of the petitioner was being extended every year by the respondents through separate agreements for each year and the service certificate issued to the petitioner, which is filed as Ex.P2, indicates the same.

The petitioner claims to have fallen ill from 18.03.2016 to 28.03.2016 on account of ill-health.

She made a representation to the 2nd respondent on 25.07.2016 that she could not attend to duties during the above period on account of ill-health enclosing medical certificate issued by the Government Doctor of the Government Civil Hospital, Chennur, Adilabad District.

The 2nd respondent then forwarded it to the Special Chief Secretary to Government, Higher Education Department, Government of Telangana, on 06.08.2016 with a direction to consider the request of the petitioner.

However, the same official on 24.09.2016 passed the impugned order stating that since the petitioner was absent from 18.03.2016 to 28.03.2016 and was not present on the last working day of the academic year 2015-16, her contract for the academic year 2016-17 would not be renewed.

Counsel for the writ petitioner contends that the respondents cannot ignore the petitioner's explanation for her absence during the above period and the medical certificate enclosed by her and refuse to renew her contract for the academic year 2016-17. He further contended that the petitioner had been working as a contract lecturer ever since 2005 and her services had been continued till 31.03.2016 by the respondents and that the 2nd respondent has acted arbitrarily in rejecting her genuine claim for renewal of her services.

On 02.11.2016, while admitting the writ petition, this Court passed the following order:

"Prima facie, the order dated 24.09.2016 refusing to renew the contract of the petitioner as a Junior Lecturer in the faculty of English, Government Junior College, Chennur, Manchiryal, Adilabad District, on the ground that she had not worked till the last working day of the academic year 2015-2016 ignoring the petitioner's explanation that she was unwell at that point of time, which is also supported by medical certificate of the Government Hospital doctor, appears to be perverse and irrational and violates Article 21 of the Constitution of India.

Therefore, there shall be interim direction, as prayed for."

W.V.M.P.No.1534 of 2017 is filed to vacate the said order. In the counter affidavit filed by the 2nd respondent, it

is contended that the petitioner was absent unauthorizedly without prior intimation from 18.03.2016 to 28.03.2016 and was not present on the last working day i.e., 28.03.2016 and in view of certain directions of the 2nd respondent, the petitioner's services were not renewed for the academic year 2016-17. In the counter affidavit a new reason is assigned for non-renewal of the petitioner's yearly contract i.e., that she was assigned the duties of examiner for Intermediate Public Examinations, March, 2016 by the Board of Intermediate Education, Telangana, Hyderabad on 05.03.2016 and instructed to report on 18.03.2016, that she was relieved on the afternoon of 17.03.2016 by the Principal, Government Junior College, Mancherla, Adilabad District with instruction to report at Government Junior College (G), Adilabad, and that she did not report to duty as examiner and absconded from duties from 18.03.2016.

It is settled law that an impugned order has to be sustained on its contents and it cannot be supported by new reasons through a counter affidavit. In the counter affidavit nowhere it is stated that the respondents had considered the claim of the petitioner that she was unwell for the period in question. No reason is assigned why the medical certificate issued by a Doctor of the Government Civil Hospital, Chennur to the petitioner is not being accepted by the respondents. If the petitioner is genuinely ill, she cannot be said to have been absconded from duties and any such interpretation placed on

her conduct by the respondents is clearly perverse, since no reasonable man can take a view that a person, who is unwell, ought to attend duty and work. It cannot be disputed that human beings occasionally fall sick and if the sickness is certified by a Doctor of a Government hospital, the genuineness of the sickness cannot be doubted. It is not the case of the respondents that non-renewal of the contract of the petitioner for the academic year 2016-17 is in accordance with the parameters mentioned in G.O.Rt.No.3, Higher Education (IE) Department, dated 21.06.2014, which are referred to in para 2 of the counter affidavit. It cannot be said, therefore, that non-renewal of the contract of the petitioner for the academic year 2016-17 by the respondents is bona fide.

Accordingly, WVMP.No.1534 of 2017 is dismissed. The interim order, dated 02.11.2016, in WPMP.No.46154 of 2016 is made absolute and the writ petition is allowed; the refusal of the respondents to renew the petitioner's contract as Junior Lecturer for the academic year 2016-17 vide the impugned order is declared as arbitrary, illegal and violative of Article 14 of the Constitution of India; and the impugned memo, dt. 24.09.2016, issued by the 2nd respondent is set aside. It is declared that the petitioner is entitled to renewal of the contract as Junior Lecturer for the academic year 2016-17 as well as for the future academic year 2017-18, without reference to the impugned order and such renewal

shall be granted, within four weeks from the date of receipt of a copy of this order. The 2nd respondent shall also pay costs of Rs.2,000/- to the petitioner.

Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

M.S. RAMCHANDRA RAO, J

Date: 05.07.2017
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