

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL No. 1384 OF 2017

DATED 18TH SEPTEMBER, 2017

Between:

The Rajiv Gandhi University of Knowledge Technologies,
Vindya – C4, IIIT – Hyderabad Campus, Gachibowli,
Hyderabad, Rep. by its Registrar, and another ... Appellants

AND

G.Priyanka and another ... Respondents

Counsel for the appellants : Smt. M.Vidyavathi

Counsel for respondent No. 1 : Sri K.R.Prabhakar

Counsel for respondent No. 2 : G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Feeling aggrieved by order dated 05-08-2016 in W.P.No. 29835 of 2013, whereby the learned single judge has allowed the said Writ Petition filed by respondent No. 1, the Rajiv Gandhi University of Knowledge Technologies, Vindya-C4, IIIT-Hyderabad Campus, Gachibowli, Hyderabad, filed this Writ Petition.

2. We have heard Smt. M.Vidyavathi, learned standing counsel for the appellants, and Sri S.Ramachandra Rao, learned senior counsel appearing for respondent No. 1.

3. Respondent No. 1 is a Postgraduate who belongs to scheduled caste community. Appellant No. 1 is constituted under the Rajiv Gandhi University of Knowledge Technologies Act, 2008, which has been running three educational centers for catering to the qualitative education of rural students. Appellant No. 2, which is one such center, has issued notification on 03-04-2008 for appointment of Mentors through regular selection process. Respondent No. 1 applied for the post of Mentor and was successful in the five stages of selection. The appellants have followed roster system in the selection process. Though regular selection has taken place, order of appointment was given to respondent No. 1 on 25-09-2009 on contract basis initially for a period of one year with a consolidated pay of Rs.20,000/- per month and posted in appellant No. 2 campus. When respondent No. 1 along with others faced threat of discontinuance, they filed W.P.No. 18415 of 2013, wherein an *interim* direction was issued to continue the petitioners therein including respondent No. 1.

4. Respondent No. 1 sent her resignation on 28-05-2013 through email to the Director of appellant No. 2. However, two days thereafter *i.e.* on 30-05-2013,

she withdrew her resignation and sought leave from 03-06-2013 to 10-06-2013 informing that she will rejoin the duty on expiry of leave. Accordingly, respondent No. 1 submitted her joining report on 10-06-2013, based on which she was permitted to join duty four days later. After being continued in the month of June and also during part of July, 2013, respondent No. 1 received intimation on 13-08-2013 from the Registrar of appellant No. 1 University accepting her resignation with effect from 01-06-2013. On 28-08-2013, respondent No. 1 made a representation seeking her continuance as Mentor. She sent another representation on 30-08-2013 making a similar request. However, as no orders were passed thereon, respondent No. 1 filed W.P.No. 29835 of 2013. By *interim* order dated 11-10-2013, this Court directed the appellants to continue respondent No. 1 in service for a period of four weeks if the latter was in service and the said order was extended by another order dated 01-11-2013 for a further period of four weeks. This order was again extended until further orders by order dated 26-12-2013.

5. In the counter affidavit filed along with vacate stay application, it was pleaded on behalf of the appellants that while appointing respondent No. 1 on contract basis for a period of one year *vide* proceedings dated 25-09-2009, a condition was imposed that she shall not have any right to make any claim with respect to the service rendered in the University in any form; that respondent No. 1 was being continued in service from time to time till her resignation on 28-05-2013 and that on the matter being referred to the Vice Chancellor, she was relieved on 29-05-2013 taking into consideration her resignation. It was further stated that respondent No. 1 sent another email on 29-05-2013 requesting to permit her to rejoin the service duly withdrawing her previous email dated 28-05-2013. Another counter affidavit by styling as better counter affidavit

was filed on 21-07-2016 on behalf of the appellants, wherein it was stated that respondent No. 1 is irregular in discharging her duties as Mentor; that she was paid remuneration/salary as contract employee till July, 2013 and that as on the date of the order of this Court on 11-12-2013, respondent No. 1 was not in service.

6. On considering the respective pleadings of both parties, the leaned single judge has set aside order dated 13-08-2013 on the ground that respondent No. 1 sent her withdrawal of resignation letter within two days of her sending the said letter and that therefore proceedings dated 31-07-2013 accepting the resignation of respondent No. 1 is illegal and arbitrary. In coming to this conclusion, the learned judge has relied on the judgments of the Supreme Court in ***Punjab National Bank Vs. P.K.Mittal***¹; ***Union of India Vs. Wing Commander T. Parthasarathy***²; ***Union of India Vs. Gopal Chandra Misra***³; and ***Srikantha S.M. Vs. Bharath Earth Movers Limited***⁴. The leaned single judge also found that though in the counter affidavit it was stated that the letter of resignation was accepted on 29-05-2013, the impugned order shows that the Vice Chancellor has passed an order only on 31-07-2013 and that the resignation was accepted with retrospective effect (from 01-06-2013) though admittedly respondent No. 1 was continued in service till July, 2013 and the impugned order of resignation was communicated to respondent No. 1 on 27-08-2013.

7. If we carefully peruse the proceedings dated 13-08-2013, whereby the resignation of respondent No. 1 was purportedly accepted, it does not support the stand of the appellants taken in the counter affidavit. As noted hereinbefore,

¹ AIR 1989 SC 1083

² (2001) 1 SCC 158

³ AIR 1978 SC 694

⁴ (2005) 8 SCC 314

it is the pleaded case of the appellants that on the next day of respondent No. 1 sending her resignation *i.e.* on 29-05-2013, the same was accepted. Surprisingly proceedings dated 29-05-2013 have not been referred to in the order dated 13-08-2013. On the contrary, it refers to the purported representation dated 10-06-2012 received from respondent No. 1 and Vice Chancellor's orders dated 31-07-2013. Neither of these proceedings have seen the light of the day. If respondent No. 1's resignation was accepted on 29-05-2013, she would not have been permitted to resume duty on 10-06-2013 and continued till 31-07-2013. Even the so called proceedings dated 13-08-2013 were communicated to respondent No. 1 only on 28-08-2013. Learned counsel for the appellants failed to explain the above inherent contradictions between their stand taken in the counter affidavit and the contents of proceedings dated 13-08-2013. We are therefore of the opinion that the plea of the appellants that the resignation of respondent No. 1 was accepted on 29-05-2017 is an obvious afterthought. The learned single judge in our opinion is therefore justified in allowing the Writ Petition. Hence, we do not find any error apparent on the face of the record for interference with the order under appeal.

8. The Writ Appeal is accordingly dismissed.

9. As a sequel to dismissal of the Writ Appeal, W.A.M.P.No. 2579 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 18-09-2017.

JSK