

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**W.P.No.3388 of 2009**

**ORDER:**

Heard learned counsel for the petitioner and Government Pleader for Revenue.

2. The petitioner was initially appointed as part-time Lecturer in English department in Government Junior College, Vemuru, Guntur district and worked there from 01.08.1988 to 31.03.1989. Thereafter, he was appointed in another College in Tenali and worked there from 26.06.89 to 14.03.1991. Later, he was appointed as Junior Lecturer in English department in the 4<sup>th</sup> respondent college on 16.08.1991 and by that time, the 4<sup>th</sup> respondent was already admitted to grant-in-aid vide G.O.Ms.No.170 dated 12.07.1990. Thereafter, the Government issued G.O.Ms.No.362 Education dated 07.10.1994, providing for payment of salary calculated on the minimum of the pay scale and regularization of part-time lecturers and Junior Lecturers working in private Degree, Oriental and Junior Colleges. When the 4<sup>th</sup> respondent sent a proposal on 20.1.1995, the proposal was accepted and the services of the petitioner were regularized by virtue of G.O.Ms.No.328 Education (C.E.III) Department dated 15.10.1997. The proceedings relating to the petitioner were issued on 13.04.1998.

3. It appears that the 1<sup>st</sup> respondent issued G.O.Rt.No.875 Education (CE.III) Department dated 15.07.1999, fixing the pay scale with notional benefits from 01.04.1994 pertaining to the private college Sri Srinivasa Junior College, Tiruchanoor, Chittoor district w.e.f. 01.04.1994. In view of the said proceedings, some of the staff members of Vijaya Nagar Junior College, Hyderabad, filed W.P.No.19277 of 1999, for applying the same benefit to them also and this Court by order dated 13.09.2000, held that the petitioners therein were entitled for regularization of their services w.e.f. 1.04.1994 and the consequent benefits arising therefrom, but with regard to counting of un-aided service for the purpose of service benefits, liberty was given to the petitioners to submit a representation. When W.A.No.1492 of 2000 was filed against the said order, the Division Bench of this Court dismissed the writ appeal on 14.02.2005. The S.L.P. against the said order of the Division Bench was also dismissed on 17.02.2006. In the present case also, the petitioner seeks relief for counting the aided service from 01.04.94 to 13.04.98, on the ground that he was working in the aided post of the 4<sup>th</sup> respondent college from 16.08.91, but the minimum pay scale was not fixed in terms of G.O.Ms.No.362 dated 07.10.1994. Though the 4<sup>th</sup> respondent recommended his case on 20.01.1995, the orders of regularization were issued only on 13.04.1998 under G.O.Ms.No.328 dated 15.10.97. The petitioner seeks the

benefit of the order of this Court in W.P.No.19277 of 1999 dated 13.09.2000.

4. The learned Single Judge in the above case, took into consideration the rival contentions and observed as follows:

“The issue that calls for consideration is whether the petitioners are entitled for regularization with retrospective effect from 01.04.1991 or with effect from August, 1998 as given to them. It is not in dispute that originally the petitioners were appointed in respective posts, but the selection was not approved on the ground that there was no government nominee on the selection Board. All these appointments were made prior to 01.10.1985 and after 01.10.1985, the A.P. College Service Commission was constituted and subsequently At.25 of 1990 was brought into effect. Admittedly, the petitioners were appointed prior to 01.10.1985 and they were treated as part time employees only on the ground that their selection was not done by a properly constituted Committee. In any event, government issued G.O.Ms.No.375 Education (CE.III-2) Department dated 20.10.1994, admitting the 3<sup>rd</sup> respondent-College to grant-in-aid. Consequently, they became entitled for higher emoluments. But, at the relevant time G.O.Ms.No.362 dated 07.10.1994 was in force and, therefore, orders were issued keeping in view G.O.Ms.No.362 and the petitioners were granted the benefit of regular scales of pay with effect from 01.04.1994. But, however, necessary increments and other benefits were not released. It was only from the date of regularization of their services in August, 1998 such benefits were extended to them.

Learned Government Pleader for Higher Education submits that the petitioners cannot seek regularization retrospectively even though the institution was admitted to grant-in-aid with effect from 01.04.1994. According to him, it is only prospective regularization which is contemplated under the orders issued by the Government. But, in the instant case, it is to be seen that G.O.Ms.No.362 dated 07.10.1994 was issued only to benefit the part-time employees working in aided institutions pending regularization and in fact G.O.Ms.No.362 was applied to the petitioners by a separate communication dated 19.12.1994 with effect from 01.04.1994. Subsequently, G.O.Ms.No.362 was kept in abeyance and revised instructions were issued vide G.O.Ms.No.328 dated 15.10.1997 regarding regularization of services. In fact, the services of the petitioners were already covered by G.O.Ms.No.362 wherein regular scales of pay were also extended to them. In such a situation can it be said that the petitioners are not entitled for regularization prospectively when G.O.Ms.No.362 was implemented and regular scales of pay were released. In similar situation, the services of employees working in Srinivasa Junior College, Tiruchanoor, Tirupati were regularized with effect from 01.04.1994 even though regularization was earlier made with effect from 07.10.1994.

Therefore, I do not find any ground to discriminate between these two Colleges as they stand on a similar footing.

Under the above circumstances, I am satisfied that the petitioners are also entitled for regularization of their services with effect from 01.04.1994 and the consequent benefits arising there from it is ordered accordingly”.

5. The facts of the instant case are also similar, as the petitioner was working in aided vacancy, consequent to his appointment on 12.07.1990. He is seeking benefit pursuant to G.O.Ms.No.362 dated 07.10.1994, as the proposals for regularization were sent by the 4<sup>th</sup> respondent to the respondents No.2 and 3 on 20.01.1995 and the orders of regularization were passed on 13.04.1998. Though the learned G.P. raised the same contentions which were raised in W.P.No.19277 of 1999, in support of the case of the Government, this Court is of the opinion that the ratio laid down in W.P.No.19277 of 1999 dated 13.09.2000, is applicable in the facts and circumstances of the case.

6. However, it is submitted that during the pendency of the W.P., by virtue of the interim order, the case of the petitioner was considered and rejected by issuing separate proceedings dated 03.5.2010, and the petitioner sought amendment of the prayer, which was ordered in W.P.M.P.No.32781 of 2010 dated 28.06.2017.

7. In view of the same, the order passed by the 2<sup>nd</sup> respondent dated 03.05.2010, rejecting the case of the petitioner, is liable to be set aside and is accordingly set aside.

Consequently, the petitioner is held to be entitled for counting the period of service rendered by him from 01.04.1994 to 13.04.1998, for the purpose of pay fixation, seniority and pension.

8. The writ petition is accordingly allowed.

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**(A.Ramalingeswara Rao,J)**

Date: 05.12.2017

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