

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.12689 of 2001

ORDER:

Petitioners joined the 3rd respondent-College, a Minority Institution, on 10.07.1985 and in 1983 respectively, as part-time lecturers.

2. The 2nd respondent-College initially issued a Notification on 27.03.1991 published in the Deccan Chronicle Newspaper inviting applications for the post of Lecturers in Commerce.

3. Petitioners were selected as Lecturers in Commerce by the Selection Committee, which interviewed them on 27.07.1991, subject to approval of the Osmania University and Commissioner of Collegiate Education(2nd respondent).

4. By letter dt.29.11.1991 addressed to the 2nd respondent, the 3rd respondent sought approval of the petitioners' appointment as Lecturers, but it was rejected by the 2nd respondent on 10.01.1992 on the ground that the Management of the 3rd respondent did not obtain prior permission from the 2nd respondent for filling up the posts of Lecturers in Commerce which had been admitted to grand-in-aid with effect from 01.04.1991, and candidates were not recruited through the Employment Exchange as per G.O.Ms.No.526 dt.21.12.1988.

5. In the meantime, this Court on 03.02.1993 in W.P.No.1241 of 1992 directed not to insist the Minority Educational Institutions to obtain sponsorship of candidates through Employment Exchange.

6. Taking advantage of the said Court order, after obtaining permission of the 2nd respondent, the 3rd respondent-College then conducted fresh selections through interview on 17.10.1994, in which petitioners were again selected as Lecturers in Commerce.

7. The 3rd respondent then submitted proposal for approval of the petitioners' selection/appointment to the 2nd respondent vide letter dt.16.09.1995. This was approved by the 2nd respondent on 03.01.1996 in the State Scales of Pay.

8. The 3rd respondent-College wrote a letter dt.19.02.2000 to the 2nd respondent to consider petitioners' cases for grant of UGC Scales and to accord approval for their appointment from 27.07.1991 itself.

9. This was rejected by the 2nd respondent by the impugned order dt.04.08.2000 stating that the approval of the appointments are given only with prospective effect and that the application of the College for granting of approval to the petitioners w.e.f. 17.10.1994 was returned to the 3rd respondent-college.

10. Assailing the same, petitioners filed this Writ Petition.

11. Counsel for the petitioners contended that the petitioners having been regularly selected on 27.07.1991, the 2nd respondent cannot deny approval for their appointments from that day and the 3rd respondent should have released UGC Scales to the petitioners from that date.

12. The fact remains that the said selection of the petitioners on 27.07.1991 was not accepted by the 2nd respondent, and the same was informed by the 2nd respondent by his proceedings dt.10.01.1992 to the 3rd respondent. Thereafter there was a fresh selection conducted on 17.10.1994, which was done by the 3rd respondent-College after obtaining permission of the 2nd respondent. The petitioners were again selected in the said selection held on 17.10.1994.

13. Since the petitioners had not agitated their right to validate the selection held on 27.07.1991 and willingly participated in the fresh selection held on 17.10.1994, they cannot now turn around and seek approval of their appointment from 27.07.1991 by filing this Writ Petition in the year 2001. Petitioners are deemed to be acquiesced in the refusal of approval for their selection, which took place on 27.07.1991, and cannot be allowed to reopen the said issue.

14. However, since the selection of the petitioners on 17.10.1994 by the 3rd respondent-College, was after taking due approval of the 2nd respondent, merely because subsequent proposal of the 3rd respondent-College was made on 16.09.1995 and it was approved on 03.01.1996, the respondents 1 and 2 cannot take the stand that the petitioners' services as Lecturers in the grant-in-aid post should be treated as approved only from 03.01.1996 on the premise that the approval will be given prospectively. When the selection was made on 17.10.1994 itself, after obtaining permission from the 2nd respondent, and there is no fault with the said selection, merely

because the 3rd respondent-College sought approval on 16.09.1995 which was granted only on 03.01.1996, petitioners cannot be denied the said benefit of approval from 17.10.1994.

15. Therefore, I hold that the impugned order, insofar as it denies the petitioners the benefit of approval of their selection as Lecturers in Commerce in the aided posts w.e.f. 17.10.1994, cannot be sustained.

16. As regards the other plea of the petitioners for extension of UGC scales of pay to them, it is not in dispute that unless they acquire a National Eligibility Test certificate, they would not be given the said benefit, even though they possess a master's degree in the relevant subject. It is not the case of either of the petitioners that they possess the said certificate even now.

17. G.O.Ms.No.61 Higher Education Department dt.16.07.2001 granted relaxation of the condition of passing of the National Eligibility Test only in respect of existing lecturers in Government Degree Colleges, but not for lecturers like the petitioners, who are employed in aided degree colleges. Therefore, the petitioners cannot claim benefit of UGC Scales of pay.

18. Accordingly, the Writ Petition is allowed in part; the impugned order passed by the 2nd respondent on 04.08.2000 is set aside; and the respondents are directed to treat the petitioners as regularly appointed Lecturers in the aided posts in the 3rd respondent-College w.e.f. 17.10.1994 and not from 03.01.1996 and are declared to be entitled to all benefits on the said basis in the State

Government Scales of Pay. Petitioners are also entitled to interest @ 9% per annum from 17.10.1994 to 03.01.1996 and from the date of filing of the Writ Petition till the date of actual payment made by the respondents. No costs.

19. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

13th September, 2017.

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