

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 5808 of 2001

ORDER:

This writ petition is filed, under Section 226 of the Constitution of India, by the petitioner seeking a writ of mandamus to declare the report of the 2nd respondent dated 13.10.1999 as illegal and arbitrary, and also to declare him as eligible for next promotional post i.e., Superintendent and regularize his services as P.A. to Registrar.

2. During pendency of the writ petition, an application in W.P.M.P.No.29115 of 2007 was filed by the petitioner for amendment of the prayer of the writ petition and the said application was allowed by an order dated 13.08.2008. The prayer sought to be amended is as follows:

“to declare the proceedings No.SKU/Estt/E1/2004 dated 07.05.2004 of the 1st respondent in placing him below the respondents 3 to 18 in the cadre of Senior Assistant in the 1st respondent university as illegal, arbitrary and contrary to the text of G.O.Ms.No.635, dated 13.09.1979, G.O.Ms.No.519 dated 12.09.1998 and the S.K.U. Cadre Rules of 1992. A consequential direction is also sought to the 1st respondent to place the petitioner above the respondents 3 to 18 in the cadre of Senior Assistant including promotion on par with the respondents 3 to 18 with all consequential and attendant benefits.”

3. Heard Sri P.B. Vijay Kumar, learned counsel for the petitioner, Sri P. Sreeramulu Naidu, learned standing counsel for S. K. University appearing for the respondents 1 and 2, and Ms. K. Udayasri, learned counsel for the respondents 11 and 14.

4. It is submitted by the learned counsel for the petitioner that the petitioner was initially appointed as Junior Assistant in the respondent university on 07.03.1989 and later i.e., on 27.06.1994 he was promoted as Senior Stenographer. While working as Senior Stenographer, the respondent university issued proceedings dated 24.01.1998 converting the petitioner from the post of Senior Stenographer to the post of Senior Assistant, and since then he is discharging duties as P.A. to Registrar. In the seniority list of non-teaching staff of various cadres i.e., from Deputy Registrar cadre to Junior Assistant cadre prepared by the respondent university vide proceedings dated 15.05.1998, the petitioner was placed at serial no.29. While so, one Mr. P. Lokanna, who is junior to the petitioner and who stands at serial no.45 in the seniority list, and others made a representation to the respondent university to recast their seniority. Basing on their representation, the university constituted a committee, before which the petitioner appeared and submitted a representation stating that the university placed him at serial no.29 of the seniority list of Senior Assistants and that his conversion from Senior Stenographer to Senior Assistant is only a change in his designation and not a new appointment and the pay of the two cadres is identical. Without applying the relevant Rules of 1992 and G.O.Ms.No.635 dated 13.09.1979 the committee came to the conclusion that the contention of the aggrieved employees against the petitioner appears to be true, as the U.D. Steno cannot have overriding claims over those who come through regular stream and actually worked as U.D. Clerk

and submitted a report on 13.10.1999. The said report was placed before the Executive Council on 12.01.2000. During pendency of the writ petition, the matter was referred to another committee and basing on the report of the said committee dated 17.10.2003, the Executive Council resolved to convert the petitioner as Senior Assistant w.e.f. 24.01.1998 by placing him at the bottom of the Senior Assistants' cadre as on that date i.e., 24.01.1998. Basing on the above, the university circulated the seniority list in the cadre of Senior Assistants dated 07.05.2004 wherein the petitioner was placed at serial no.32 and the persons appointed/promoted as Senior Assistants from 28.06.1994 to 24.01.1998 were allowed to march over the petitioner in utter disregard of G.O.Ms.No.635 dated 13.09.1979. As per the seniority list dated 07.05.2004, Sri P. Lokanna was promoted as Superintendent on 07.07.2007 and the university is likely to promote other persons. Though the petitioner submitted a letter dated 06.07.2007 to remedy the injustice caused to him, but it is in vain. Questioning the same, the petitioner filed the present writ petition.

5. It is contended by the learned counsel for the petitioner that since the post of Senior Stenographer and Senior Assistant are interchangeable and the services rendered in the post of Senior Stenographer should also be counted for the purpose of fixation of seniority in the cadre of Senior Assistant, and that the petitioner should be placed over and above the unofficial respondents in view of G.O.Ms.No.635, dated 13.09.1979. It is further contended that the

petitioner was given seniority w.e.f. 22.12.1997, during the pendency of the writ petition, but he should have been given seniority w.e.f. 27.06.1994.

6. Learned standing counsel for the respondent university contends that G.O.Ms.No.635 dated 13.09.1979 was adopted by the respondent university till the university framed Cadre Rules during 1992 and once the Cadre Rules are framed in 1992, the question of extending the benefit of G.O.Ms.No.635 would not arise, that as per the Cadre Rules, 1992 there is no conversion from the post of Senior Stenographer to the post of Senior Assistant, that as the petitioner had requested the respondent university to convert him from the post of Senior Stenographer to the post of Senior Assistant, his case was considered vide orders dated 24.01.1998, that as the petitioner raised the dispute of seniority, a committee was constituted to resolve the issue of seniority of the petitioner, that basing on the report of the committee, the petitioner was assigned the date '22.12.1997' for fixation of his seniority in the cadre of Senior Assistant, and that, therefore, the writ petition is devoid of merits and liable to be dismissed.

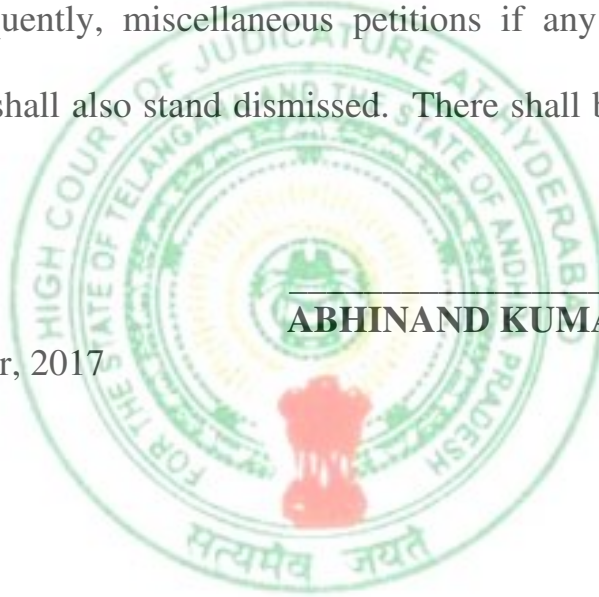
7. I have considered the rival submissions made by the parties. When the respondent university has taken a specific stand that G.O.Ms.No.635 dated 13.09.1979 was in force till Cadre Rules are framed during 1992 and after Cadre Rules are framed, G.O.Ms.No.635 has no application. Since the petitioner is seeking

relief under G.O.Ms.No.635 dated 13.09.1979, the same cannot be granted to him. More over, the petitioner was promoted as Senior Stenographer on 27.06.1994 and he was converted to the post of Senior Assistant only on 24.01.1998. In view of the above, the petitioner cannot seek enforcement of a non-existent G.O.Ms.No.635 dated 13.09.1979 in respect of the respondent university. Therefore, the writ petition is devoid of merits and liable to be dismissed. Accordingly, the writ petition is dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall also stand dismissed. There shall be no order as to costs.

19th December, 2017
cbs

ABHINAND KUMAR SHAVILI, J



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No. 5808 of 2001
(dismissed)

19th December, 2017

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