

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2488 OF 2010

DATED : 14.02.2017

Between :

G. Narayana S/o.Anjaneyulu,
Aged about 55 yrs, Occu : Principal (FAC),
VKR College, Budhavaram, Krishna District,
R/o.Budhavaram, Krishna District.

..

Petitioner

And

The Regional Joint Director of Collegiate Education,
Rajahmundry, East Godavari District & others.

..

Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2488 OF 2010

ORDER :

Petitioner joined in service as lecturer in Mathematics on 06.11.1978 in VKR College, Budhavaram, in an unaided vacancy. He was later appointed to aided vacancy on 01.06.1984. The 2nd respondent was appointed in Faculty Improvement Programme on 19.01.1979 against an aided vacancy of lecturer. There was an *inter se* claim regarding seniority. The Regional Joint Director of Collegiate Education-1st respondent, vide his proceedings dated 21.01.2010, after verifying the service records of petitioner and the 2nd respondent, came to conclusion that 2nd respondent is senior to the petitioner on the ground that 2nd respondent was appointed to grant in aid post much earlier to the petitioner and therefore, the 2nd respondent is senior. The said order of the 1st respondent is under challenge in this writ petition.

2. Heard learned counsel for the petitioner and learned Government Pleader for Education.

3. Learned counsel for the petitioner submits that petitioner joined in service much earlier to the 2nd respondent in the same college and therefore he is senior to the 2nd respondent. According to learned counsel the date of joining/appointment against aided post is not relevant for the purpose of determination of *inter se* seniority. Therefore, the decision of the 1st respondent in assigning seniority to 2nd respondent is illegal. He further submits that the Commissioner of Collegiate Education vide his proceedings dated 04.02.1999 issued instructions on *inter se* fixation of seniority of lecturers working in Private Aided Degree Colleges. According to

Clause (1) of these instructions, the date of joining of the petitioner is earlier to the date of joining of 2nd respondent and thus petitioner is entitled to seniority and contrary to these orders of the Commissioner the *inter se* seniority is fixed.

4. The 1st and 2nd respondents denied the contentions urged by the petitioner. The stand of both the respondents is that while determining the seniority of lecturers, appointment to aided service alone is the criteria and as the 2nd respondent was appointed in aided service earlier to the petitioner, petitioner cannot claim seniority and therefore, determination of seniority made by the 1st respondent in proceedings dated 21.01.2010 is valid and do not call for any interference.

5. The short issue for consideration is whether aided service alone to be taken into consideration for fixation of seniority or entire length of service would be counted for determining the seniority of lecturers working in Private Aided Colleges ?

6. The instructions of the Commissioner of Collegiate Education dated 04.02.1999 relied on by learned counsel for the petitioner does not refer to whether the seniority *inter se* should be determined between two different categories of persons for taking the total length of service or among the same category of persons, the seniority should be determined.

7. A bare perusal of Clause (1) of the proceedings dated 04.02.1999 relied by learned counsel for the petitioner, it appears that it is referable to persons joining in the service and appointment made simultaneously. In the instant case petitioner joined service initially against an unaided post and later appointed to aided post, whereas 2nd respondent was directly appointed to

aided post. Therefore, they do not fall under same class of persons for comparing them and for determination of *inter se* seniority. It is not in dispute that petitioner has not challenged appointment of 2nd respondent to aided vacancy directly, even though he was already working in the same college against an unaided vacancy. Learned counsel for the petitioner does not dispute fact that the appointment of 2nd respondent was earlier to the appointment of the petitioner against aided vacancy. It is also not in dispute that appointment to the post of Principal is based on appointment to aided vacancy and no person working in an unaided post can be considered for such appointment.

8. It is also appropriate to notice in the facts of this case that 2nd respondent was promoted as principal and both petitioner and 2nd respondent have already retired from service. I do not see any illegality in the exercise undertaken by the 1st respondent in determining the seniority *inter se* and granting seniority to the 2nd respondent over and above the petitioner. Petition deserves no consideration and the writ petition is liable to be dismissed.

9. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

14th February, 2017
Rds

P.NAVEEN RAO,J