

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT APPEAL No.1227 of 2017

Between:

The State of Telangana,
represented by its Principal Secretary,
Higher Education Department,
Hyderabad and others

..Appellants

and

M.R.Jyothi Lakshmi

..Respondent

JUDGMENT PRONOUNCED ON: 29th August, 2017

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

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

1. Whether Reporters of local
Newspapers may be allowed : Yes/No
to see the Judgments?

2. Whether the copies of
judgment may be marked to : Yes/No
Law Reporters/Journals?

3. Whether their Ladyship/Lordship
wish to see fair copy of the : Yes/No
Judgment?

C.V.NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

*THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD
+ WRIT APPEAL No.1227 of 2017

% 29.08.2017

The State of Telangana,
represented by its Principal Secretary,
Higher Education Department,
Hyderabad and others

..Appellants

Vs.

\$ M.R.Jyothi Lakshmi

..Respondent

! Counsel for the appellants: Government Pleader for Services (TS)

Counsel for respondent: None appeared

< Gist :

> Head Note:

? Cases referred:

1. AIR 1952 SC 16
2. (1978) 1 SCC 405

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
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Counsel for the appellants: Government Pleader for Services (TS)

Counsel for respondent: None appeared

The Court made the following:



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

Order, dated 05.07.2017, in W.P.No.37459 of 2016 and the miscellaneous applications filed therein, whereby the learned Single Judge has allowed the said writ petition and dismissed the vacate stay petition is questioned in this writ appeal.

2. Shorn of unnecessary details, the dispute pertains to unceremonious non-renewal of the contract service of the respondent as Junior Lecturer. It is not in dispute that the respondent has been working as contract Junior Lecturer in the Government Junior College in Mancherial District from the year 2005. The respondent has absented from duty from 18.03.2016 to 28.03.2016, the latter being the last working day before closure of the junior college for summer vacation. After reopening of the college, when the respondent went to report, she was not permitted to join. Eventually, on a representation made by her on 12.08.2016, appellant No.2 has issued memo, dated 24.09.2016, wherein he has stated as under:

“Smt.M.R.Jyothi Lakshmi, ex-Contract faculty in English, Government Junior College, Mancherial, Adilabad district was absent to the College from 18.03.2016 to 28.03.2016 and she has not present on the last working day of the academic year 2015-2016. According to the instructions issued by the Government and Commissioner of Intermediate Education in the references 1st to 4th read above, Contract faculty who have worked till the last working day of the academic year 2015-2016 only shall be renewed.

Smt.M.R.Jyothi Lakshmi has not worked till the last working day of academic year 2015-2016, her case cannot be considered for renewal for the academic year 2016-2017.”

Feeling aggrieved by this memo/proceeding, the respondent has filed the aforementioned writ petition.

3. It was the pleaded case of the respondent that as she was ill, she could not attend the college from 18.03.2016 to 28.03.2016. To substantiate her plea of illness, she has produced a medical certificate. It was pleaded on behalf of the appellants that not only that the respondent was absent on the last working day i.e., on 28.03.2016, but also she absconded from the invigilation work during the period of her absence. The learned Single Judge has observed that the only reason reflected in the order impugned in the writ petition was that the respondent has not attended the college on the last working day and that as per the instructions issued by appellant Nos.1 and 2 in various references referred to therein, the contract faculty who have worked till the last working day of the academic year only shall be renewed. The learned Single Judge has, accordingly, held that the reason which is not mentioned in the order impugned in the writ petition cannot be supplemented by way of affidavits.

4. The learned Government Pleader for Services (TS) appearing for the appellants has submitted that the respondent is only a contract employee and that therefore, she has no right to insist on her continuance. He has further submitted that as the respondent absconded from the invigilation work and stayed away from duty without permission, she is not entitled to be re-appointed as contract Junior Lecturer.

5. The fact that the respondent is being engaged as contract Junior Lecturer from 2005 itself shows that though there is need for a regular Lecturer, the post is not filled up. This Court cannot refrain from taking judicial notice of the recent trend with the State and its subordinate functionaries in engaging personnel on contract basis without filling up the

regular vacancies. In effect, the State is slowly destroying the concept of public employment. If a contract employee is used as a substitute for a regular employee, the State must be made to be bound by the same public law limitations, which are imposed on it by the constitution and also the extant statutory enactments. Had the respondent been appointed regularly, it would not have been possible for the appellants to terminate her employment unceremoniously as has been done now. In our opinion, it is time that the Courts need to protect the interests of the contract/outsourcing employees working in regular vacancies also in the same way as the regular employees are protected by applying the principle underlying Article 311 of the Constitution of India, wherever terminations smack of illegality and arbitrariness.

6. In the instant case, the respondent has produced the Doctor certificate in support of her stand that due to her ill-health, she could not attend duty from 18.03.2016 to 28.03.2016. The appellants have not considered the said certificate and have arbitrarily rejected the request of the respondent on the ground that she did not attend the college on the last working day before its closure for summer vacation. As rightly observed by the learned Single Judge, it is not uncommon for human beings to fall ill and unless the appellants have termed the Doctor certificate as false, there is no justification for them to treat the absence of the respondent from 18.03.2016 to 28.03.2016 as a reason for non-renewal of her contract employment. As regards the allegation that the respondent evaded the invigilation work, the said reason is not reflected in the order impugned in the writ petition. The law is fairly well settled that public functionaries cannot supplement the reasons, which are otherwise not contained in their orders, by way of affidavits (See

Commissioner of Police, Bombay Vs. Gordhandas Bhanji¹ and Mohinder Singh Gill v. Chief Election Commissioner²). Having carefully considered the facts of the case and the reasons assigned by the learned Single Judge, we do not find any reason to interfere with the order under appeal.

7. The Writ Appeal is, accordingly, dismissed.

8. As a sequel to dismissal of the writ appeal, W.A.M.P.No.2272 of 2017 filed by the appellants for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

29th August, 2017
GHN



¹ AIR 1952 SC 16

² (1978) 1 SCC 405